

ROBINSON DONOVAN MADDEN & BARRY, P.C.

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December 24, 1996

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VICTOR ROSENBERG

MILTON J. DONOVAN
(1906 - 1995)

RECEIVED
SURFACE TRANSPORTATION
BOARD
DEC 30 1 32 PM '96
ADMITTED INST

VIA FEDERAL EXPRESS

Secretary

Surface Transportation Board

f/k/a Interstate Commerce Commission

1201 Constitution N.W.

Washington, DC 20423

DOCUMENTS FOR RECORDATION

RE: Massachusetts Central Railroad Corporation

Dear Secretary

We have enclosed an original and one copy/counterpart of the document(s) described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Security Agreement, a primary document dated December 16, 1996.

The names and addresses of the parties to the document are as follows:

Debtor:

Massachusetts Central Railroad Corporation
One Wilbraham Street
Palmer, MA 01069-9560

Secured Party:

Springfield Institution for Savings
1441 Main Street
Springfield, MA 01103

A description of the equipment covered by the document follows:

Various equipment including without limitation, the locomotives, cars and other rolling stock described below, as well as all locomotives, cars and other rolling stock acquired by Debtor after the date of the Security Agreement described above:

Locomotives/Engines:

- One (1) Mass Central Locomotive #21
ALCO Diesel Engine, Model No. RS-1
Serial #None (Rebuilt)
- One (1) Mass Central Locomotive #65
DAVENPORT/PORTER Switcher, Model USN-65
Serial #00328
- One (1) Mass Central Locomotive #401
WHITCOMB 44-Ton Switcher
Serial #None (Built 1940's)
- One (1) Mass Central Locomotive #2100
General Motors Electro-Motive Division (EMD)
Model NW5, Built 1946-1947 (D/100002)
Diesel Engine Type 12-567-BC (Rebuilt, 1989)
Serial #A9604
- One (1) Mass Central Locomotive #4220
ALCO Diesel Engine, Model No. C-424
Serial #3381-01 (Built June, 1964)
- One (1) Mass Central Locomotive #4243
ALCO Diesel Engine, Model No. C-425
Serial #3381-04 (Built June, 1964)
- One (1) Mass Central Locomotive #4258
ALCO Diesel Engine, Model No. C-425
Serial #3461-01 (Built May, 1966)
- One (1) Mass Central Locomotive #4265
ALCO Diesel Engine Model No. C-424
Serial #3461-07 (Built June, 1966)

Passenger Cars:

- Coach, MCER #101
- Coach, MCER #102
- Coach, MCER #338

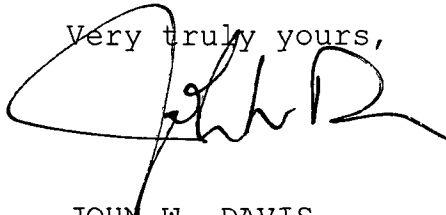
A short summary of the document to appear in the index follows:

A Security Agreement between Massachusetts Central Railroad Corporation, of One Wilbraham Street, Palmer, MA, as Debtor, and Springfield Institution for Savings, of 1441 Main Street, Springfield, MA, as Secured Party, dated December 16, 1996 and covering, inter alia, all equipment, including without limitation, the following amounts and types of equipment, as well as all locomotives, cars and other rolling stock acquired by Debtor after the date of the Security Agreement described above:

<u>Amount(s):</u>	<u>Type(s) of Equipment</u>
Eight (8)	Locomotives/Engines
Four (4)	Passenger Cars
Eight (8)	Freight Cars
Three (3)	Items of Intermodal Equipment
Five (5)	Items of Miscellaneous Track Equipment

Please acknowledge the receipt and filing of the enclosed Security Agreement by returning to this office a date-stamped copy of this letter in the pre-paid Federal Express "packet" provided for this purpose.

Very truly yours,



JOHN W. DAVIS

JWD/kod

Enclosures: Security Agreement (original and copy)
\$22.00 Check
Letter (copy)
Return Federal Express Packet

cc: David R. Danker, Vice President
Springfield Institution for Savings

Eugene B. Berman, Esquire
Kamberg, Berman, P.C.

Coach, ETCR #729 (Combination Passenger/Baggage)

Freight Cars:

40' Boxcar, MCER #4363

Small tank car, CV 4271

52' Flat Car, MCER #5161

52' Flat Car

77-ton open top hopper, MCER 432505

77-ton open top hopper, MCER 432785

100-ton open top hopper, MCER 472941

Caboose, MCER #79524

Intermodal and Miscellaneous Track Equipment:

Mi-Jack Model AC800 Straddle Crane:

Serial #5021 with an expandable grapppler of 20 to 40 feet

One (1) LeTourneau Container Handling Machine

Model #26-82-CH, Serial #1052

Taylor Empty Container Handler TYC250M

Toledo/Masstron 7260 Weigh-in-Motion Scale

Geismar Tie Changer MRT-2

Case 580C TrackMaster

Two (2) Aluminum 6,000 pound track carts

Atlas Compressor/Utility Trailer

A fee of \$22.00 is enclosed. Please return the original and any extra copies not needed by the Board for recordation to:

John W. Davis, Esquire
Robinson, Donovan, Madden
& Barry, P.C.
1500 Main Street, 16th Floor
Springfield, MA 01115

SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20425-0001

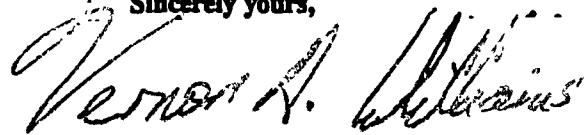
12/30/96

John W. Davis
Robinson Donovan Madden & Barry, P.C.
1500 Main Street, Ste. 1600
P. O. Box 15609
Springfield, Massachusetts 01115-5609

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/30/96 at 1:35PM, and assigned recordation number(s). 20430.

Sincerely yours,

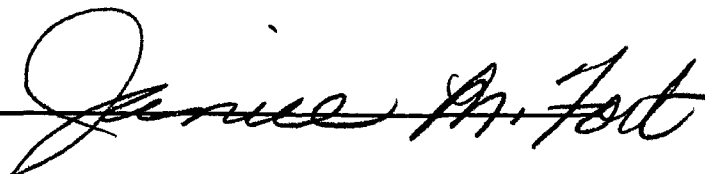


Vernon A. Williams
Secretary

Enclosure(s)

\$ 22.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature



LOAN AND SECURITY AGREEMENT

LOAN AND SECURITY AGREEMENT made this 16th day of December, 1996 by and between MASSACHUSETTS CENTRAL RAILROAD CORPORATION, a Massachusetts corporation having a principal place of business at One Wilbraham Street, Palmer, Massachusetts (hereinafter referred to as the "Borrower" or "Debtor"), and SPRINGFIELD INSTITUTION FOR SAVINGS, a Massachusetts banking institution having a principal place of business at 1441 Main Street, Springfield, Massachusetts, 01103 (hereinafter referred to as the "Bank").

In consideration of the mutual covenants herein contained, it is agreed as follows:

1 DEFINITIONS AND ACCOUNTING TERMS

1.1 Defined Terms. As used in this Agreement, the following terms have the following meanings (terms defined in the singular to have the same meaning when used in the plural and vice versa):

- 1.1.1 **"Account Debtor"** shall mean the person obligated on an Account Receivable.
- 1.1.2 **"Accounts Payable"** shall mean all amounts due on account to creditors of Borrower as determined in accordance with GAAP.
- 1.1.3 **"Accounts Receivable", "Account" or "Accounts"** shall mean and include accounts receivable and notes, drafts, acceptances and other instruments representing or evidencing a right to payment for goods sold or leased or for services rendered whether or not earned by performance by the Borrower.
- 1.1.4 **"Accounts Receivable Collateral"** shall mean that portion of the Collateral consisting of Accounts.
- 1.1.5 **"Advance"** shall mean a Revolving Line of Credit Loan made to the Borrower by the Bank pursuant to this Agreement.
- 1.1.6 **"Affiliate"** shall mean any Person (1) which directly or indirectly controls, or is controlled by, or is under common control with the Borrower or a Subsidiary; (2) which directly or indirectly beneficially owns or holds five percent (5%) or more of any class of voting stock of the Borrower or any Subsidiary; or (3) five percent (5%) or more of the voting stock of which is directly or indirectly beneficially owned or held by the Borrower or a Subsidiary. The term "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.
- 1.1.7 **"Agreement"** shall mean this Loan and Security Agreement, as amended, supplemented, or modified from time to time.
- 1.1.8 **"Borrowing Capacity"** shall mean, at the time of the computation, the amount specified in **Item 1** of the Schedule.
- 1.1.9 **"Business Day"** shall mean any day other than a Saturday, Sunday, or other day on which commercial banks in Massachusetts are authorized or required to close under the laws of The Commonwealth of Massachusetts.
- 1.1.10 **"Capital Lease"** shall mean all leases which have been or should be capitalized on the books of the lessee in accordance with GAAP.
- 1.1.11 **"Certificate"** shall have the meaning assigned to it in **Section 9**.
- 1.1.12 **"Certified Account"** shall mean an Account Receivable which has been listed in an aging report delivered by the Borrower to the Bank pursuant to the provisions of **Section 9** hereof.

- 1 1 13 **"Code"** shall mean the Internal Revenue Code of 1986, as amended from time to time, the regulations promulgated thereunder and the published interpretations thereof
- 1.1.14 **"Collateral"** shall have the meaning assigned to it in **Section 6**.
- 1 1 15 **"Commonly Controlled Entity"** shall mean an entity, whether or not incorporated, which is under common control with the Borrower within the meaning of Section 414(b) or 414(c) of the Code
- 1 1 16 **"Credit"** shall mean any discount, allowance, credit, rebate, or adjustment granted by Borrower with receipt to an Account, other than a cash discount described in **Items 3** of the Schedule
- 1 1 17 **"Debt"** shall mean (1) indebtedness or liability for borrowed money, (2) obligations evidenced by bonds, debentures, notes, or other similar instruments, (3) obligations for the deferred purchase price of property or services (including trade obligations); (4) obligations as lessee under Capital Leases, (5) current liabilities in respect of unfunded vested benefits under Plans covered by ERISA, (6) obligations under letters of credit, (7) obligations under acceptance facilities, (8) all guaranties, endorsements (other than for collection or deposit in the ordinary course of business), and other contingent obligations to purchase, to provide funds for payment, to supply funds to invest in any Person or entity, or otherwise to assure a creditor against loss; and (9) obligations secured by any Liens, whether or not the obligations have been assumed.
- 1 1 18 **"Default"** shall mean any of the events specified in **Section 17**, whether or not any requirement for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied
- 1 1 19 **"Eligible Inventory"** shall mean Borrower's Inventory, (excluding work-in-process and raw materials unless a percentage of such types of inventory is specified in **Item 2** of the Schedule), which is initially and at all times until sold new and unused, in first-class condition, merchantable and saleable through normal trade channels, physically located at the Borrower's principal address as set forth at the beginning of this Agreement or such other location as previously agreed to in writing by the Bank in its sole discretion, subject to a perfected security interest in favor of Bank, owned by Borrower free and clear of any lien except in favor of Bank; not obsolete; not scrap, waste, defective goods and the like, has been produced by Borrower in accordance with the Federal Fair Labor Standards Act of 1938, as amended, and all rules, regulations and orders promulgated thereunder, and has not been designated by Bank in its reasonable discretion as unacceptable for any reason by notice to Borrower
- 1 1 20 **"ERISA"** shall mean the Employment Retirement Income Security Act of 1974, as amended from time to time, the regulations promulgated thereunder and published the interpretations thereof
- 1 1 21 **"Event of Default"** shall mean any of the events specified in **Section 17**, provided that any requirement for the giving of notice, the lapse of time or both, or any other condition, has been satisfied
- 1 1 22 **"Extension"** shall mean the granting to an Account Debtor of additional time within which such Account Debtor is required to pay an Account
- 1 1 23 **"Federal Bankruptcy Code"** shall mean Title 11 of the United States Code, entitled "Bankruptcy", as amended, or any successor federal bankruptcy law
- 1 1 24 **"Fee Payment Date"** shall have the meaning assigned to such term in **Section 2.2**.
- 1 1 25 **"GAAP"** shall mean generally accepted accounting principles consistently applied, in accordance with financial reporting standards from time to time in effect among nationally recognized certified public accounting firms in the United States
- 1 1 26 **"Guarantor(s)"** shall mean any person who has guaranteed to the Bank payment or performance of any of the Obligations

- 1 1 27 **"Guaranty(ies)"** shall mean the guaranty(ies) delivered or to be delivered by any Guarantor(s) under the terms of this Agreement or otherwise
- 1 1.28 **"Ineligible Accounts"** means the following described Accounts and any other Accounts which, in the reasonable discretion of Bank, are not satisfactory for credit or any other reasonable reason Borrower acknowledges that the following description of specific types of Ineligible Accounts does not limit Bank's reasonable discretion to deem other Accounts to be Ineligible Accounts
- 1 1 28 1 Any Account which has remained unpaid for more than the number of days specified in **Item 4** of the Schedule
- 1 1 28 2 Any Account with respect to which a representation or warranty contained in **Section 13.3, 13.7 or 13.8** is not, or does not continue to be, true and accurate, including without limitation, any Account subject to a setoff
- 1 1 28 3 Any Account with respect to all or part of which a check, promissory note, draft, trade acceptance, or other instrument for the payment of money has been received, presented for payment, and returned uncollected for any reason
- 1.1 28 4 Any Account with respect to which Borrower has extended the time for payment without the consent of Bank, except as provided in **Section 11.2.1**
- 1 1.28.5 Any Account as to which any one or more of the following events occurs. a Responsible Party shall die or be judicially declared incompetent, a request or petition for liquidation, reorganization, arrangement, adjustment of debts, adjudication as a bankrupt, or other relief under the bankruptcy, insolvency, or similar laws of the United States, any state or territory thereof, or any foreign jurisdiction, now or hereafter in effect shall be filed by or against a Responsible Party, a Responsible Party shall make any general assignment for the benefit of creditors, a receiver or trustee, including without limitation, a "custodian" as defined in the Federal Bankruptcy Code, shall be appointed for a Responsible Party or for any of the Assets of a Responsible Party; any other type of insolvency proceeding with respect to a Responsible Party (under the bankruptcy laws of the United States or otherwise) or any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against, or winding up of affairs of, a Responsible Party shall be instituted, all or any material part of the assets of a Responsible Party shall be sold, assigned or transferred; a Responsible Party shall fail to pay its debts as they become due, or a Responsible Party shall cease doing business as a going concern.
- 1 1 28 6 All Accounts owned by an Account Debtor owing Accounts classified as Ineligible under any criterion set forth in any of **Sections 1.1.28.1 through 1.1.28.5** or in **Section 1.1.28.9**, if the outstanding dollar amount of such Ineligible Accounts constitutes a percentage of the aggregate outstanding dollar amount of all Accounts owed by such Account Debtor equal to or greater than the percentage specified in **Item 5** of the Schedule
- 1 1 28 7 All Accounts owed by an Account Debtor which does not maintain its chief executive office in the United States or which is not organized under the laws of the United States or any state, unless otherwise specified in **Item 6** of the Schedule
- 1 1 28 8 All Accounts owed by an Account Debtor if Borrower or any person who, or entity which, directly or indirectly controls Borrower, either owns in whole or material part, or directly or indirectly controls such Account Debtor
- 1 1 28 9 Any Account as to which the perfection, enforceability, or validity of Bank's Security Interest in such Account, or Bank's right or ability to obtain direct payment to Bank of the Proceeds of such Account, is governed by any federal or

state statutory requirements other than those of the Uniform Commercial Code, including, without limitation, any Account collection of which is subject to the Federal Assignment of Claims Act of 1940, as amended or any state business activity report filing

- 1 1.28 10 Any Account arising from a consignment or other arrangement pursuant to which the subject Inventory is returnable if not sold or otherwise disposed of by the Account Debtor; any Account constituting a partial billing under terms providing for payment only after full shipment or performance; any Account arising from a bill and hold sale or in connection with any pre-billing where the Inventory or services have not been delivered, performed, or accepted by the Account Debtor; and any Account as to which the Account Debtor contends the balance reported by Borrower is incorrect or not owing
- 1 1 28 11 Any Account which is an Instrument, Document or Chattel Paper or which is evidenced by a note, draft, trade acceptance, or other instrument that has not been endorsed and delivered by Borrower to Bank
- 1 1.28 12 Any Account or Accounts owed by an Account Debtor which exceeds any credit limit established by Bank for such Account Debtor, provided, that such Account or Accounts shall be ineligible only to the extent of such excess
- 1 1.28 13 Any Account which did not arise from the performance of services or an outright sale of goods by Borrower, or any account which did so arise, but such goods have not been shipped to the Account Debtor or Borrower does not have possession of, or Borrower has not delivered to Bank, shipping and delivery receipts evidencing such shipment
- 1.1 28 14 Any Account which did not arise out of a sale made upon terms usual to the business of the Borrower
- 1 1 28 15 Any Account as to which Borrower permits Borrower's rights therein to be reached by attachment, levy, garnishment or other judicial process.
- 1 1 28 16 Any Account which is the subject of any dispute and relates to any goods which are the subject of any dispute between the Borrower and such Account Debtor.
- 1 1 28 17 Any Account which is for goods sold and delivered or services rendered which represent goods previously sold and delivered, or services previously rendered, which were the subject of a prior Account or invoice, unless such rebilled Account (i) would otherwise qualify hereunder if dated on the original date of the prior Account or invoice and (ii) Borrower has notified the Bank and the Bank has approved such re-billing.
- 1 1 28 18 Any Account which is owed by the United States of America or any state (including, without limitation, the Commonwealth of Massachusetts) or any political subdivision, department, agency or instrumentality thereof
- 1 1 28 19 Any Account which is owed by any third-party provider or any other reimbursor of healthcare expenses
- 1 1 28 20 Any Account which arose out of the sale of any agricultural products
- 1 1 28 21 Any Account which the Bank, in its commercially reasonable discretion, deems to be unacceptable
- 1 1 28 22 Any Account which, when aggregated with all of the Accounts of that Account Debtor, exceeds the percentage specified in **Item 7** of the Schedule of the then aggregate of Accounts In the event that the Account, when so aggregated, does

exceed such percentage, such Account shall be an Ineligible Account only to the extent of such excess (unless such Account is otherwise disqualified under this **Section 1.1.28**.

- 1 1 29 **"Insolvent"** The Borrower, its Subsidiaries, any Guarantor or any other person shall be considered to be "Insolvent" when any of the following events shall have occurred whereby the Borrower or any of its Subsidiaries or the Guarantor(s) (a) shall generally not pay, or shall be unable to pay, or shall admit in writing its inability to pay its debts as such debts become due, or (b) shall make an assignment for the benefit of creditors, or petition or apply to any tribunal for the appointment of a custodian, receiver, or trustee for it or a substantial part of its assets; or (c) shall commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or (d) shall have had any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or an adjudication or appointment is made, and which remains undismissed for a period of ninety (90) days or more, or (e) shall take any corporate action indicating its consent to, approval of, or acquiescence in any such petition, application, proceeding, or order for relief or the appointment of a custodian, receiver, or trustee for all or any substantial part of its properties, or (f) shall suffer any such custodianship, receivership, or trusteeship to continue undischarged for a period of ninety (90) days or more
- 1 1 30 **"Inventory"** shall mean and include all inventory as defined in the Uniform Commercial Code as in effect in the State as of the date of this Agreement, and in any event shall include returned or repossessed Goods.
- 1 1 31 **"Inventory Borrowing Base"** shall mean, at the time of the computation, an amount not exceeding the percentages specified in **Item 2** of the Schedule of the dollar value of Eligible Inventory, such dollar value to be calculated at the lower of actual cost or market value and accounted for in the manner specified in **Item 8** of the Schedule, less the amount of any reserves established by the Bank in accordance with **Section 3.2**.
- 1 1 32 **"Invoice"** shall mean any document or documents used or to be used to evidence an Account
- 1 1 33 **"Lien"** shall mean any mortgage, deed of trust, pledge, security interest, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), or preference, priority, or other security agreement or preferential arrangement, charge, or encumbrance of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction to evidence any of the foregoing)
- 1 1 34 **"Loan(s)"** shall mean the Revolving Line of Credit Loans
- 1 1 35 **"Loan Account"** shall mean the account upon the books of the Bank in which will be recorded all Revolving Line of Credit Loans made by the Bank to the Borrower pursuant to this Agreement, all payments made on such Advances and other appropriate debits and credits
- 1 1 36 **"Loan Documents"** shall mean this Agreement, the Note, the Guaranties and other documents related to the transactions discussed in this Agreement
- 1 1 37 **"Multiemployer Plan"** shall mean a Plan described in Section 4001(a)(3) of ERISA
- 1 1 38 **"Note"** shall mean the Revolving Line of Credit Note
- 1 1 39 **"Obligation"** and **"Obligations"** shall have the meaning assigned to it in **Section 6**, including, without limitation, all obligations of Borrower under the Revolving Line of Credit Note and under a term note by Borrower in favor of Bank of even date hereto in a stated principal amount of \$670,000 .

- 1 1 40 **"PBGC"** shall mean the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA
- 1 1 41 **Intentionally Deleted.**
- 1 1 42 **"Person"** shall mean an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority or other entity of whatever nature
- 1 1 43 **"Plan"** shall mean any pension plan which is covered by Title IV of ERISA and in respect of which the Borrower or a Commonly Controlled Entity is an "employer" as defined in Section 3(5) of ERISA
- 1 1 44 **"Prime or Base Rate"** shall mean the rate of interest announced by the Bank from time to time at its Principal Office as its generally prevailing "Prime Rate", which Prime Rate is not necessarily the lowest or best rate available at the Bank or charged to its customers
- 1 1 45 **"Principal Office"** shall mean the principal office of the Bank specified in **Item 15** of the Schedule.
- 1.1 46 **"Prohibited Transaction"** shall mean any transaction set forth in Section 406 of ERISA or Section 4975 of the Code
- 1 1 47 **"Receivables Borrowing Base"** shall mean, at the time of its computation, the aggregate amount of the outstanding Accounts in which the Bank has a first priority perfected security interest (adjusted with respect to Credits and returned merchandise as provided in **Section 11** hereof), less the amount of Ineligible Accounts and any reserves established by the Bank in accordance with **Section 3.2**.
- 1 1 48 **"Reportable Event"** shall mean any of the events set forth in Section 4043 of ERISA.
- 1 1 49 **"Responsible Party"** shall mean an Account Debtor, a general partner of an Account Debtor, or any party otherwise in any way directly or indirectly liable for the payment of an Account
- 1 1 50 **"Review Date"** shall mean that date on which the Loan is reviewed and upon which date the Loan shall expire unless revised or extended by the Bank in its discretion. The initial review date for the Loan is as specified in **Item 45** of the Schedule
- 1 1 51 **"Revolving Line of Credit Loans"** shall have the meaning assigned to such term in **Section 2.1**.
- 1 1 52 **"Revolving Line of Credit Note"** shall the meaning assigned to it in **Section 2.1** below.
- 1 1 53 **"Schedule"** shall mean the schedule executed in connection with, and which is a part of, this Agreement.
- 1 1 54 **"Security Interest"** means the security interest granted to the Bank by the Borrower as described in **Section 6** of this Agreement
- 1 1 55 **"Standby L/C Liability"** shall mean 100% of the maximum liability of the Bank under any outstanding standby letters of credit issued for the account of Borrower or any of its Subsidiaries or Affiliates together with all funds drawn under any such letter of credit to be repaid by the Borrower
- 1 1 56 **"State"** means the State or Commonwealth of the United States of America specified in Item 40 of the Schedule

1 1 57 **"Subsidiary"** shall mean, as to the Borrower, a corporation of which shares of stock having ordinary voting power (other than stock having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by the Borrower

1 1 58 **"Third Party"** shall mean any Person who has executed and delivered, or who in the future may execute and deliver, to Bank any agreement, instrument or document pursuant to which such person or entity has guaranteed to Bank the payment of the Obligations or has granted Bank a security interest in or lien on some or all of such Person's real or personal property to secure the payment of the Obligations

1 1 59 **"Trust Account"** shall mean the account upon the books of the Bank in which will be recorded all collections on Collateral of the Borrower received by the Bank, all amounts paid from such account against the Loan Account or otherwise, and other appropriate debits and credits

1 2 **UCC Definitions.** Unless otherwise defined in **Section 1.1** or **1.3** or elsewhere in this Agreement, capitalized words shall the meanings set forth in the Uniform Commercial Code as in effect in the State as of the date of this Agreement

1 3 **"Accounting Terms"** All accounting terms not specifically defined herein shall be construed in accordance with GAAP consistent with those applied in the preparation of the financial statements referred to in **Section 13.9**, and all financial data submitted pursuant to this Agreement shall be prepared in accordance with such principles

2 **AMOUNT AND TERMS OF LOAN.**

2.1 **Revolving Line of Credit Loans.** From time to time the Bank may, in its sole discretion, make Revolving Line of Credit Loans to the Borrower in such amounts as the Borrower may request and the Bank may approve, provided, however, that the aggregate principal amount of all Revolving Line of Credit Loans at any time outstanding shall not exceed the amount of the Borrowing Capacity as of that time

The Bank may make such loans to the Borrower, based upon such facts and circumstances existing at the time of the request, as from time to time the Bank elects to make which are secured by Borrower's Inventory, Accounts and all other Collateral and the proceeds thereof All such loans shall bear interest and shall be payable ON DEMAND

The Revolving Line of Credit Loans will be made available with simple annual interest equal to rate specified at **Item 9** on the Schedule Interest will be payable monthly in arrears on the outstanding principal balance during the previous payment period

If at any time the outstanding principal amount of the Revolving Line of Credit Loans exceeds the Borrowing Capacity, the Borrower shall promptly pay an amount equal to the excess to the Bank, plus the amount specified in **Item 10** of the Schedule

A Loan Account shall be opened on the books of the Bank in which account a record shall be kept of all Revolving Line of Credit Loans made by the Bank to the Borrower under or pursuant to this Agreement, and all payments thereon Revolving Line of Credit Loans shall be recorded in the Loan Account and be evidenced by the Revolving Line of Credit Note (the "Revolving Line of Credit Note") The outstanding amount of Revolving Line of Credit Loans shall be conclusively evidenced by the Bank's records of disbursements and repayments The enumeration of Events of Default in **Section 17** hereof shall in no way alter the demand character of the Revolving Line of Credit Loans or of any other demand Obligation of the Borrower The Bank may make demand upon the Revolving Line of Credit Note with respect to the Revolving Line of Credit Loans or other demand Obligations at any time, whether or not an Event of Default has occurred If at any time the outstanding principal amount of the Revolving Line of Credit Loans exceeds the Borrowing Capacity, the Borrower shall promptly pay an amount equal to the excess to the Bank, plus the amount specified in **Item 10** of the Schedule The Revolving Line of Credit Loans will be reviewed annually as of the Review Date as long as no demand has been made prior thereto

The Bank may also keep a record (either in the Loan Account or elsewhere, as the Bank may from time to time elect) of all interest, service charges, costs, expenses, and other debits owed the Bank on account of the Revolving Line of Credit Loans contemplated hereby and of all credits against such amounts so owed.

The Receivables Borrowing Base and the Inventory Borrowing Base ratios and, accordingly, the Borrowing Capacity are intended solely for guidance and are not to be construed as committing to lend up to such Borrowing Capacity.

- 2.2 Unused Balance Fee In addition to the amounts due as provided above, Borrower shall pay to the Bank on the first day of each March, June, September and December (a "Fee Payment Date") following the date of the Note, a fee calculated by multiplying daily the unused portion of this credit facility by a per annum rate equal to the percentage set forth on **Item 10** of the Schedule and adding together the amounts obtained for each day during the three months prior to a Fee Payment Date
- 2.3 Prepayment Premium The prepayment premium due, if any, for a prepayment of any Loan shall be as specified in **Item 41** of the Schedule
- 2.4 Cross Default A default in any of the terms and conditions of the Note or this Agreement shall constitute a default in any other obligations of the Borrower, or any Guarantor, whether evidenced by notes or otherwise. A default in any of the terms and conditions of the Note shall constitute a default of this Agreement and any default of this Agreement shall constitute a default in the Note. A default in any of the terms and conditions of any other obligations of the Borrower, or any Guarantor, whether to the Bank or otherwise, shall constitute a default hereunder and under the Note
- 2.5 Letters of Credit From time to time the Bank may in its sole discretion issue or otherwise facilitate standby or commercial letters of credit for the account of the Borrower. The Standby L/C Liability shall at all times remain within the Borrowing Capacity and shall reduce availability under the Revolving Line of Credit Loans
- 2.6 Use of Proceeds The proceeds of the Revolving Line of Credit Loans shall be used by the Borrower for working capital requirements of the Borrower. The Borrower will not, directly or indirectly, use any part of such proceeds for the purpose of purchasing or carrying any margin stock within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or to extend credit to any Person for the purpose of purchasing or carrying any such margin stock, or for any purpose which violates, or is inconsistent with, Regulation X of such Board of Governors
- 2.7 Late Payment Any payment on the Loan received more than fifteen (15) days after its due date shall be subject to an additional charge of five percent (5.0%) of the amount due
- 2.8 Interest After Demand or Default Interest after Demand or upon an Event of Default shall, at the Bank's option, be charged upon the then outstanding principal balance and any interest accrued up to the date of such Event of Default or Demand, as the case may be, to the extent permitted by law, at a variable rate equal to the aggregate of the Prime Rate and five percent (5.00%)

3 ADVANCES

- 3.1 Notice and Manner of Borrowing Borrower shall give the Bank written, facsimile or telegraphic notice (effective upon receipt) of any Loans under this Agreement at least the number of days in advance of such Loan as provided in **Item 11** of the Schedule, specifying in each case the amount and date of the Loan. Loans, taken in the aggregate with all outstanding amounts and any Standby L/C Liability will not exceed the Borrowing Capacity. The Bank may agree to provide advances on a zero balance deposit account basis, debiting the Loan Account for amounts of checks presented and crediting it for deposits made subject to **Section 10.3** below. Provided that (i) the Borrowing Capacity would not be so exceeded, (ii) there has not occurred an Event of Default or an event which, with notice or lapse of time or both, would constitute an Event of Default, and (iii) all representations and warranties contained in this Agreement and in the other Loan Documents are true and correct on the date such requested Advance is made as though made on and as of such date, the Bank may, at its discretion, make such Advance available to the

Borrower in immediately available funds by crediting the amount thereof to the Borrower's account with the Bank

- 3.2 Establishment of Reserves The Bank may at any time and from time to time in its sole discretion establish reserves against the Accounts or the Inventory of the Borrower. The amount of such reserves shall be subtracted from the Receivables Borrowing Base or Inventory Borrowing Base, as applicable, when calculating the amount of the Borrowing Capacity

Notwithstanding any other provision of this Agreement, the Bank may from time to time reduce the percentages applicable to the Receivables Borrowing Base and the Inventory Borrowing Base as they relate to amounts of the Borrowing Capacity if the Bank determines in its sole discretion that there has been a material change in circumstances related to any or all Receivables or Inventory from those circumstances in existence on or prior to the date of this Agreement

- 4 CONDITIONS PRECEDENT The obligation of the Bank to make the initial Revolving Line of Credit Loan shall be subject to the condition precedent that the Bank shall have received on or before the day of such Loan each of the following, in form and substance satisfactory to the Bank and its counsel

- 4 1 Execution of Note The Note duly executed by the Borrower

- 4 2 Evidence of Borrower's Authority and Incumbency of Representatives Certified (as of the date of this Agreement) copies of all corporate action taken by the Borrower, including resolutions of its Board of Directors, authorizing the execution, delivery, and performance of the Loan Documents to which it is a party and each other document to be delivered pursuant to this Agreement together with a certificate (dated as of the date of this Agreement) of the Secretary of the Borrower certifying the names and true signatures of the officers of the Borrower authorized to sign the Loan Documents to which it is a party and the other documents to be delivered by the Borrower under this Agreement.

- 4 3 Guaranties and Subordinations Guaranty and Subordination Agreements duly executed by the Guarantors specified in **Item 43** of the Schedule

- 4 4 Opinion A favorable opinion of counsel for the Borrower and Guarantors, dated the date of the Loan, in such form as is acceptable to the Bank and as to such other matters as the Bank may reasonable request

- 4 5 Officer's Certificate, etc The following statements shall be true and the Bank shall have received a certificate signed by a duly authorized officer of the Borrower dated the date of the Loan stating that

a) The representations and warranties contained in **Section 13** of this Agreement are correct on and as of the date of the Loan as though made on and as of such date, and

b) No Default or Event of Default has occurred and is continuing, or would result from the making of the Loan

- 4 6 Other Related Documents The Bank shall have received such other approvals, opinions, certificates or documents as the Bank may reasonably request

- 5 PROMISE TO PAY Borrower promises to pay

- 5 1 Obligations. All Obligations of the Borrower to the Bank, including, but not limited to, the Obligations evidenced by the Note of even date with interest at the rate set forth or in the manner determined in accordance with the aforesaid Note

- 5 2 Taxes Any and all taxes, charges and expenses of every kind or description which are the obligations of the Borrower, paid or incurred by the Bank with respect to the loans or financial accommodations made or any Collateral therefor, or the collection or realization upon the same, together with interest thereon at the rate set forth in the Note

- 6 SECURITY INTEREST GRANTED; COLLATERAL

- 6 1 Security Interest and Collateral In consideration of one or more loans, or other financial accommodations made to the Borrower by the Bank, the Borrower hereby grants to the Bank a security interest (the "Security Interest") in the property of the Borrower described in **Exhibit A** attached hereto, including but not limited to all of Borrower's goods, inventory, motor vehicles, machinery, equipment, furniture, furnishings, fixtures, documents, instruments, accounts, contract rights, chattel paper and general intangibles, whether now owned or now due, or hereafter at any time in the future acquired, arising, to become due or in which the Borrower obtains an interest, and in the products and proceeds thereof, and in all accessions and additions thereto, and in all replacement and substitutions therefor (collectively, and with any other collateral granted by any other Person to secure performance hereunder, the "Collateral")
- 6 2 Other Collateral Nothing contained in this Agreement shall limit the rights of the Bank in and to any other collateral securing the Obligations which may have been or may hereafter be granted to Bank by Borrower or any Third Party pursuant to any other agreement
- 6 3 Obligations Secured The security interest granted hereby is to secure payment and performance of all debts, liabilities and obligations of Borrower to the Bank hereunder and also any and all other debts, liabilities and obligations of Borrower to Bank of every kind and description, direct or indirect, absolute or contingent, primary or secondary, due or to become due, now existing or hereafter arising, whether or not such obligations are related to the transactions described in this Agreement, by class, or kind, or whether or not contemplated by the parties at the time of the granting of this security interest, regardless of how they arise or by what agreement or instrument they may be evidenced or whether evidenced by any agreement or instrument, and includes obligations to perform acts and refrain from taking action as well as obligations to pay money including, without limitation, all interest, fees, charges, expenses and overdrafts, and also including, without limitation, all obligations and liabilities which the Bank may incur or become liable for, on account of, or as a result of any transactions between Bank and Borrower including any which may arise out of any letter of credit, acceptance or similar instrument or obligation incurred by Bank for the account of Borrower (all hereinafter called "Obligations")

Until all Obligations have been fully satisfied, the Bank's security interest in the Collateral shall continue in full force and effect and the Bank shall at all times, to the extent required for perfection, have the right to the physical possession of the Collateral and to maintain such possession on Borrower's premises or to remove the Collateral or any part thereof to such other places as Bank may desire

- 7 SALE OR DISPOSITION OF INVENTORY In the absence of a Default hereunder, the Borrower may sell Inventory in the ordinary course of its business upon terms not exceeding the terms set forth in **Item 31** of the Schedule. Borrower will not without the consent of the Bank, sell Inventory to any supplier or employee of Borrower or to any person to whom Borrower is indebted or under circumstances which would otherwise create any adverse lien against the Account Receivable resulting from such sale. In the absence of a Default hereunder, the Borrower may also process, use or consume such part of its Inventory as is customary and reasonable in the ordinary operation of its business, excluding, however, sales to creditors, or in bulk, or sales or other disposition occurring under circumstances which would or could create a lien or interest adverse to the Bank's security interest hereunder
- 8 BANK'S REPORTS After the end of each month, Bank will render to Borrower a statement of Borrower's Loan Account with Bank hereunder, showing all applicable credits and debits. Each statement shall be considered correct and to have been contained therein under or pursuant to this Agreement, and the closing balance shown therein, unless within ten (10) calendar days from when such statement is mailed or if not mailed, delivered, to Borrower, Borrower shall deliver to Bank written notice of any objections which it may have as to such statement, and in such event, only the items to which objection is expressly made in such notice shall be considered to be disputed by Borrower.
- 9 BORROWER'S REPORTS AND CERTIFICATES Borrower shall deliver to Bank, daily or at such other intervals as may be specified in **Item 23** of the Schedule, the Reports and Certificates so specified in **Item 23** of the Schedule. The Reports and records of the Collateral. Borrower's failure to provide Bank with any such schedule shall not affect the Security Interest

All reports and certificates required herein (the "Reports" and "Certificates") will contain a certification by the chief financial officer of the Borrower that the information contained in the report is true and accurate to the best of the officer's knowledge

COLLECTION OF ACCOUNTS RECEIVABLE, PROCEEDS OF COLLATERAL

- 10 1 Authority of Borrower. Except as hereinafter provided, the Borrower is authorized to collect all its Accounts Receivables as the Bank's collection agent. The Borrower agrees that it will hold all such collections in trust for the Bank without commingling the same with other funds of such Borrower and will promptly, on the day of receipt thereof, transmit such collections to the Bank (for deposit in a "Blocked Account" therein) in the identical form in which they were received by such Borrower, with such endorsements as may be appropriate. If the Bank requests, at any time and from time to time after an Event of Default and expiration of any grace period, the Borrower will cause all Account Debtors, to be provided with a return envelope pre-addressed to a Bank-designated lock box and take other reasonable steps to arrange receipt of payment by the Bank directly, without notification to the Account Debtors; or Bank may at such time deliver to such Account Debtors a copy of the Notification to Account Debtors and may deliver to the United States Postal Service the Notification of Change of Mailing Address, both of which having been executed in undated form and delivered to Bank.
- 10 2 Credits to Loan Account, Release of Collections. At such times as the Bank shall determine, the Bank, by charging the Trust Account and crediting the Loan Account, shall apply the full amount then on deposit in the Trust Account after allowing that number of days as specified in **Item 12** of the Schedule for the collection and clearance of checks, drafts or other items (other than cash), in reduction or payment of Obligations then outstanding, such application to be subject to final payment in cash of all items theretofore credited to the Trust Account. The Bank, in its discretion, may give immediate credit to the Loan Account, for purposes of Line of Credit availability, charging interest nonetheless on such amounts to compensate the Bank for collection time for that number of days as specified in **Item 12** of the Schedule. Such charge may be imposed monthly on the aggregate of all deposits of checks, drafts or other items (other than cash) made during the monthly payment period. In lieu of applying the funds in the Trust Account in reduction or payment of outstanding Obligations, the Bank may at such intervals and on such conditions as may be permitted by the Bank release to the Borrower funds in the Trust Account in consideration of the acquisition by the Bank of a security interest in additional Collateral.
- 10 3 Charge other Accounts. The Borrower authorizes the Bank to charge any account which the Borrower maintains with the Bank for any payments which the Borrower may, must, or customarily, makes to the Bank from time to time.

11 PROCEDURES AFTER SCHEDULING ACCOUNTS

- 11 1 Returned Merchandise. Borrower shall notify Bank immediately of the return, rejection, repossession, stoppage in transit, loss, damage or destruction of any Inventory. In addition to making appropriate adjustments to the Receivables Borrowing Base and the Inventory Borrowing Base to reflect the return of such Inventory, Bank may, in its sole discretion, request Borrower to pay to Bank an amount equal to the consideration to have been paid for such Inventory by the Account Debtor, such payment to be applied directly to unpaid Advances.
- 11 2 Credits and Extensions.
- 11.2 1 Granting of Credits and Extensions. Borrower may grant such Credits and such Extensions as are ordinary in the usual course of Borrower's business without the prior consent of Bank, provided, however, that any such Extension shall not extend the time for payment beyond thirty (30) days after the original due date as shown on the Invoice evidencing the related Account, or as computed based on the information set forth on such Invoice.
- 11 2 2 Accounting for Credits and Extensions. Borrower shall make a full accounting of each grant of a Credit or an Extension, including a brief description of the reasons thereof and a copy of all credits memoranda. Such accounting shall be in form satisfactory to Bank and shall be delivered to Bank daily or at such other intervals as may be specified in **Item 23** of the Schedule. All credit memoranda issued by Borrower shall be numbered consecutively and copies of the same, when delivered to Bank, shall be in numerical order and account in the same manner as provided in **Section 9.3** with respect to Invoices.

11.2.3 **Adjustment to Receivables Borrowing Base.** The Receivables Borrowing Base will be reduced by the amount of all Credits reflected in an accounting required by **Section 11.2.3** and may, in the sole discretion of Bank, be reduced by the full amount of any Accounts for which Extensions were granted. Borrower shall pay to Bank with each such accounting an amount equal to the aggregate of such reductions of the Receivables Borrowing Base resulting therefrom, such payment to be applied directly to Advances unless Bank, in its sole discretion, waives its right to such payment where, after such reductions of the Receivables Borrowing Base, the total outstanding Advances to Borrower under this Agreement do not exceed the Borrowing Capacity as then computed.

11.3 **Returned Instruments** In the event that any check or other instrument received in payment of an Account shall be returned uncollected for any reason, Bank may, in its sole discretion, again forward the same for collection or return the same to Borrower. Upon receipt of a returned check or instrument by Borrower, Borrower shall immediately make the necessary entries on its books and records to reinstate the Account as outstanding and unpaid and immediately notify Bank of such entries. Pursuant to **Section 1.1.27.3**, the Account with respect to which such check or instrument was received shall thereupon become an Ineligible Account.

11.4 **Notes Receivable.** Borrower shall not accept any note or other instrument (except a check or other instrument for the immediate payment of money) with respect to any Account without the prior written consent of Bank. If Bank in its sole discretion consents to the acceptance of any such note or instrument, the same shall be considered as evidence of the Account giving rise to such note or instrument, shall be subject to the Security Interest, and shall not constitute payment of such Account, and Borrower shall forthwith endorse such note or instrument to the order of Bank and deliver the same to Bank. Upon collection, the proceeds of such note or instrument may be applied directly to unpaid Advances, interest, and costs and expenses as provided in **Section 8.5**.

12 **THE BANK AS THE BORROWER'S ATTORNEY** The Borrower hereby irrevocably appoints the Bank the true and lawful attorney of the Borrower with full power of substitution, coupled with an interest, in the name of the Bank but at the sole expense of the Borrower, when the Borrower is in default hereunder and after the expiration of any applicable grace period: (a) to demand, collect, receive payment of, receipt for, settle, compromise or adjust, and give discharges and releases in respect of the Accounts Receivable or any of them, (b) to commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Accounts Receivable or any of them and to enforce any other rights in respect thereof or in respect of the goods which have given rise thereto, (c) to defend any suit, action or proceeding brought against Borrower in respect of any Account Receivable or the goods which have given rise thereto, (d) to settle, compromise or adjust any suit, action or proceeding described in clause (b) or (c) above and, in connection therewith, to give such discharges or releases as to the Bank may reasonably deem appropriate, (e) to endorse checks, notes, drafts, acceptances, money orders, bills of lading, warehouse receipts or other instruments or documents evidencing or securing the Accounts Receivable or any of them, (f) to receive, open and dispose of all mail addressed to Borrower or to such address, care of the Bank, as the Bank may designate, and (g) generally to sell, assign, transfer, pledge, make any agreement in respect of or otherwise deal with an Account Receivable or the goods which have given rise thereto as fully and completely as though the Bank were the absolute owner thereof for all purposes. The powers conferred on the Bank by this Agreement are solely to protect the interest of the Bank and shall not impose any duty upon the Bank to exercise any such power, and if the Bank shall exercise any such power, it shall be accountable only for amounts that it actually receives as a result thereof and shall not be responsible to the Borrower except for intentional misconduct. The Bank shall be under no obligation to take steps necessary to preserve rights in any Collateral against prior parties but may do so at its option. The Bank may at its option transfer at any time to itself or to its nominee any securities held as Collateral hereunder and receive the income thereon and hold the same as Collateral hereunder and may at any time notify the Account Debtors and obligors to make all future payments thereon to the Bank. At its option, the Bank may discharge any taxes, liens, security interest or other encumbrances to which any Collateral is at any time subject, and may, upon the failure of either Borrower so to do, purchase insurance on any Collateral and pay for the repair, maintenance or preservation thereof, and the Borrower agrees to reimburse the Bank on demand for any payments made or expenses reasonably incurred by the Bank pursuant to the foregoing authorization, and authorizes the Bank to charge the Loan Account for the amount of such payments or expenses. The Bank may at any time take control of any proceeds of Collateral to which the Bank is entitled hereunder or under applicable law.

REPRESENTATIONS AND WARRANTIES OF THE BORROWER To induce the Bank to enter into this Agreement, the Borrower represents and warrants as follows:

- 13.1 **Corporate Existence; Authority** The Borrower is a corporation duly organized, validly existing and in good standing under the laws of the state specified in **Item 14** of the Schedule. Borrower has full corporate power to own its properties and conduct its business as now conducted, and to enter into and perform this Agreement. Borrower is in good standing in each jurisdiction in which the failure to qualify would have a material, adverse effect upon its financial condition, business or properties. The execution and delivery of this Agreement, the Note and all related documents has been duly authorized and evidenced valid and binding obligations of the Borrower.
- 13.2 **Legally Enforceable Agreement** This Agreement is, and each of the other Loan Documents when delivered under this Agreement will be, legal, valid, and binding obligations of the Borrower or the Guarantors, as the case may be, in accordance with their respective terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, and other similar laws affecting creditors' rights generally.
- 13.3 **Validity of Accounts** (a) Each Account is genuine and enforceable in accordance with its terms and represents an undisputed and bona fide indebtedness owing to Borrower by the Account Debtor obligated thereon, (b) there are no defenses, setoffs, or counterclaims against any Account, (c) no payment has been received on any Account and no Account is subject to any Credit or Extension or agreements therefor unless written notice specifying such payment, Credit, Extension or agreement has been delivered to the Bank, (d) each copy of each Invoice is a true and genuine copy of the original Invoice sent to the Account Debtor named therein and accurately evidences the transaction from which the underlying Account arose and the date payment is due as stated on each such Invoice, or computer based on the information set forth on each such Invoice, is correct, (e) all Chattel Paper and all promissory notes, drafts, trade acceptances, and other instruments for the payment of money relating to or evidencing each Account, and each endorsement thereon, are true and genuine and in all respects what they purport to be, and are the valid and binding obligations of all parties thereto and the date or dates stated on such items as the date on which payment in whole or in part is due is correct; (f) all Inventory described in each Invoice has been delivered to the Account Debtor named in such Invoice or placed for such delivery in the possession of a carrier not owned or controlled directly or indirectly by Borrower, (g) all evidence of the delivery or shipment of Inventory is true and genuine, (h) all services to be performed by Borrower in connection with each Account has been performed by Borrower, and (i) all evidence of the performance of such services by Borrower is true and genuine.
- 13.4 **Inventory** (a) All representations made by the Borrower to the Bank, and all documents and schedules given by the Borrower to the Bank relating to the description, quantity, quality, condition and valuation of the Inventory are true and correct, (b) Borrower has not received any Inventory on consignment or approval unless Borrower; (i) has delivered written notice to the Bank describing any Inventory which Borrower has received on consignment or approval, (ii) has marked such Inventory on consignment or approval or has segregated it from all other Inventory, and (iii) has appropriately marked its records to reflect the existence of such Inventory on consignment or approval, (c) Inventory is located only at the address or addresses of Borrower set forth at the beginning of this Agreement, the locations specified in **Item 16** of the Schedule, or such other place or places as approved by the Bank in writing and (d) all Inventory is insured as required by **Section 15.4** pursuant to policies in full compliance with requirements of such Section.
- 13.5 **Equipment** Equipment is located and Equipment which is a Fixture is affixed to real property, only at the address of the Borrower set forth at the beginning of this Agreement, the locations specified in **Item 16** of the Schedule, or such other place or places as approved by the Bank in writing. Such real property is owned by Borrower or by the person or persons named in **Item 16** of the Schedule and is encumbered only by the mortgage or mortgages listed in **Item 16** of the Schedule.
- 13.6 **Place of Business** (a) Unless otherwise disclosed to the Bank in **Item 16** or **Item 18** of the Schedule, Borrower is engaged in business operations which are in whole or in part carried on at the address or addresses specified at the beginning of this Agreement and at no other address or addresses (b) if Borrower has more than one place of business, its chief executive office is at the address specified at the

beginning of this Agreement, and (c) Borrower's records concerning the Collateral are kept at the address or addresses specified at the beginning of this Agreement or in **Item 18** of the Schedule.

- 13 7 Title of Assets and Collateral, Priority of Security Interest The Borrower has good and marketable title to all the properties and assets used in its business and, specifically, to all of the Collateral, and the Borrower will defend the title to the Collateral against all persons and against all claims and demands whatsoever, and the Borrower shall keep the Collateral subject to no future lien, encumbrance or charge. The security interest granted hereby constitutes a valid first lien encumbrance, subject to no prior security interests, except as arise by operation of law, or as are set forth in **Item 17** of the Schedule.
- 13 8 Notes Receivable No Account is an Instrument, Document or Chattel Paper or is evidenced by any note, draft, trade acceptance or other instrument for the payment of money, except such note, draft, trade acceptance or other instrument as has been endorsed and delivered by Borrower to the Bank.
- 13 9 Financial Statements The Borrower's financial statements furnished to the Bank, have been prepared in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding fiscal years and accurately present the financial condition of the Borrower and its subsidiaries, if any, as of such date and the results of their operations for the periods then ended and since such dates there have been no material adverse changes in their financial condition or operations.
- 13 10 Labor Disputes and Acts of God. Neither the business nor the properties of the Borrower or any Subsidiary or any Guarantor are affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy, or other casualty (whether or not covered by insurance), materially and adversely affecting such business or properties or the operation of the Borrower or such Subsidiary or such Guarantor.
- 13 11 Other Agreements Neither the Borrower nor any Subsidiary nor any Guarantor(s) is a party to any indenture, loan or credit agreement, or to any lease or other agreement or instrument, or subject to any charter or corporate restriction which could have a material adverse effect on the business, properties, assets, operations, or conditions, financial or otherwise, of the Borrower or any Subsidiary or any Guarantor, or the ability of the Borrower or any Guarantor to carry out its obligations under the Loan Documents to which it is a party. Neither the Borrower nor any Subsidiary nor any Guarantor is in default in any respect in the performance, observance, or fulfillment of any of the obligations, covenants, or conditions contained in any agreement or instrument material to its business to which it is a party.
- 13 12 Litigation Except as set forth in **Item 21** of the Schedule, there is no pending or threatened action or proceeding against or affecting the Borrower or any of its Subsidiaries or any Guarantor before any court, governmental agency, or arbitrator, which may, in any one case or in the aggregate, materially adversely affect the financial condition, operations, properties, or business of the Borrower or any Subsidiary or any Guarantor or the ability of the Borrower or any Guarantor to perform its obligations under the Loan Documents to which it is a party.
- 13.13 No Defaults No event has occurred and no condition exists which, upon the execution and delivery of this Agreement, with respect to any other agreement or instrument to which Borrower is a party, would constitute a default or an Event of Default thereunder. Neither the nature of the Borrower or any of its business or properties nor any relationship between the Borrower and any other person or any circumstances in connection with the execution or delivery of this Agreement or the Note is such as requires a consent, approval or authorization of or filing, registration or qualification with any governmental authority on the part of the Borrower as a condition of the execution and delivery of this Agreement or the Note or any other instrument, agreement or document contemplated hereby, or the performance of the Borrower of its obligations hereunder or thereunder.
- 13 14 Subsidiaries The Borrower has such Subsidiaries, if any, as are listed on the Schedule at **Item 13** and the percentage ownership of the Borrower in each such Subsidiary is specified in such **Item 13**.
- 13 15 Operation of Business The Borrower and any of its Subsidiaries and any Guarantor possess all licenses, permits, franchises, patents, copyrights, trademarks, and trade names, or rights thereto, to conduct their respective businesses substantially as now conducted and as presently proposed to be conducted, and

the Borrower and any of its Subsidiaries and any Guarantor are not in violation of any valid rights or others with respect to any of the foregoing

- 13.16 ERISA. The Borrower and each Subsidiary are in compliance in all material respects with all applicable provisions of ERISA. Neither a Reportable Event nor a Prohibited Transaction has occurred and is continuing with respect to any Plan, no notice of intent to terminate a Plan has been filed, nor has any Plan been terminated without prior approval of the Bank, which approval shall not be unreasonably withheld, no circumstances exist which constitute grounds entitling the PBGC to institute proceedings to terminate, or appoint a trustee to administer, a Plan, nor has the PBGC instituted any such proceedings, neither the Borrower nor any Commonly Controlled Entity has completely or partially withdrawn from a Multiemployer Plan, the Borrower and each Commonly Controlled Entity have met their minimum funding requirements under ERISA with respect to all of their Plans, and the present value of all vested benefits under each Plan does not exceed the fair market value of all Plan assets allocable to such benefits, as determined on the most recent valuation date of the Plan and in accordance with the provisions of ERISA, and neither the Borrower nor any Commonly Controlled Entity has incurred any liability to the PBGC under ERISA
- 13.17 Maintenance of Collateral, Inspection. The Borrower agrees that it will maintain the Collateral, or such portion of the Collateral which is tangible property, in good condition and repair, and will not cause the property to be wasted or destroyed in any manner, and will not to the best of Borrower's knowledge use the Collateral in violation or any provisions of this Security Agreement, of any applicable statute, regulation or ordinance, or of any policy insuring the Collateral. The Borrower shall at all reasonable times upon reasonable notice and during business hours, and from time to time, allow the Bank, by or through any of its officers, agents, attorneys, accountants or other designees, to examine, inspect or make extracts from any of the Borrower's books and records, or to examine and inspect the Collateral and other operations of the Borrower's business.
- 13.18 Taxes and Assessments. The Borrower has paid or caused to be paid all taxes, assessments and other charges of every nature which may be levied or assessed against the Collateral, or for which the Borrower is liable when due, except as it, in good faith and by appropriate proceedings, shall be contesting the validity or the amount thereof, and against which adequate reserves have been established
- 13.19 Tax Returns. The Borrower and any of its Subsidiaries and any Guarantor have filed all tax returns (Federal, state, and local) required to be filed
- 13.20 Debt. Set forth in the financial statements referred to in this Agreement is a complete and correct list of all material credit agreements, indentures, guaranties, Capital Leases, and other investments, agreements, and arrangements presently in effect providing for or relating to extensions of credit (including agreements and arrangements for the issuance of letters of credit (including agreements and arrangements for the issuance of letters of credit or for acceptance financing) in respect of which the Borrower or any Subsidiary is in any manner directly or contingently obligated, and the maximum principal or face amounts of the credit in question, which are outstanding and which can be outstanding, are correctly stated, and all Liens of any nature given or agreed to be given as security therefor are correctly described or indicated in such financial statements
- 13.21 Environmental Representation. The Borrower represents and warrants to the Bank that to the best of its knowledge there has been no release of any hazardous substance by it, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 et seq., ("CERCLA") nor any release of oil or hazardous material by it, as defined in the Massachusetts Oil and Hazardous material Release Prevention and Response Act, Massachusetts General Laws, Chapter 21E, (the "Massachusetts Superfund Act"), upon or onto any premises occupied or operated by Borrower including premises listed in **Item 16** of the Schedule
- 13.22 No Consent or Filing. No consent, license, approval or authorization of, or registration, declaration or filing with, any court, governmental body or authority or other person or entity is required in connection with the valid execution, delivery or performance of the Loan Documents or for the conduct of Borrower's business as now conducted, other than filings and recordings in connection with the Loan Documents

- 13.23 Solvency Borrower individually is not, and Borrower and its Subsidiaries taken as a whole are not, and during the term of this Agreement, Borrower individually, and Borrower and its Subsidiaries taken as a whole, will not be at any time Insolvent, either before or after giving effect to the transactions contemplated by the Loan Documents and any acquisition of stock or assets occurring in conjunction with or related to the Loan Documents
- 13.24 Trademarks and Patents. Borrower and each Subsidiary possess all trademarks, trademark rights, patents, patent rights, licenses, permits, trade names, trade name rights, copyrights and approvals that are required to conduct its business as now conducted without conflict with the rights or claimed rights of others. A list of the foregoing is set forth in **Item 19** of the Schedule.
- 13.25 Margin Stock Neither Borrower's executing and delivery of any of the Loan Documents nor the borrowing by Borrower of any sums pursuant thereto violates Section 7 of the Securities Exchange Act of 1934, as amended, or any rule or regulation thereunder, and Borrower neither owns nor intends to purchase or carry any "margin stock" except as set forth in **Item 20** of the Schedule
- 14 AFFIRMATIVE COVENANTS So long as any Obligation shall remain unpaid or unperformed, the Borrower will comply with the covenants contained in **Item 24** of the Schedule and will
- 14.1 Maintenance of Business At all times maintain its business operations in substantial similarity with those operations as they existed at the time of the closing of the Loans, unless otherwise consented to by the Bank, which consent will not be unreasonable withheld
- 14.2 Maintenance of Records Keep, and cause any Subsidiary to keep, adequate records and books of account, in which complete entries will be made in accordance with GAAP consistently applied, reflecting all financial transactions of the Borrower and any of its Subsidiaries
- 14.3 Maintenance of Properties Maintain, keep, and preserve, and cause any Subsidiary to maintain, keep, and preserve, all of its properties (tangible and intangible) including all Collateral necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear excepted.
- 14.4 Insurance Until the Loans are paid in full, the Borrower shall obtain and maintain in effect, at the Borrower's expense, casualty and property damage as well as personal liability insurance including extended coverage, all in amounts and with insurance carriers reasonably approved by the Bank. In no event shall the amounts be less than (i) the lesser of (x) the replacement cost of the insurable collateral, or (y) the full face amount of the Loans, and (ii) whatever amounts are necessary to avoid any co-insurance provision therein. Coverage included in the policy or policies insuring the Collateral shall not be less than that encompassed by fire, extended coverage, vandalism and malicious mischief, with perils broadened to include so called "all risk of physical loss". All policies will contain a standard mortgagee or secured party clause or endorsement (waiving defenses the insurer may have against the Borrower with respect to any claims for the benefit of the Bank) and will provide that the Bank is mortgagee, loss payee and additional insured and will also provide for a thirty (30) day advance written notice to the Bank of any policy cancellation or material modification or change.
- The Bank is and will be authorized and empowered in its sole option to collect and receive or cause to be collected and received for its account the proceeds of any insurance policy covering the Collateral. Said proceeds shall be held by the Bank as cash collateral for the Obligations, and the Bank's sole option, may be expended for the repair, restoration or rebuilding of the Collateral or applied toward the outstanding principal balance of the Loans or any other Obligation.
- 14.5 Keyperson Insurance Maintain keyperson life insurance in the amounts and on the employees designated on **Item 44** of the Schedule, which policies shall be assigned to the Bank
- 14.6 Compliance With Laws Comply, and cause any Subsidiary to comply, in all respects with all applicable laws, rules, regulations, and orders, such compliance to include, without limitations, paying before the same become delinquent all taxes, assessments, and governmental charges imposed upon it or upon its property

- 14 7 **Rights of Inspection, Audits.** At any reasonable time and from time to time, permit the Bank or any agent or representative thereof to examine the Collateral and the records and books of account of the Borrower and any Subsidiary and make copies of and abstracts from the records and books of account of, and visit the properties of, the Borrower and any Subsidiary, and to discuss the affairs, finances, and accounts of the Borrower and any Subsidiary with any of their respective officers and directors and, with prior notice, the Borrower's independent accountants. A fee in the amount specified in **Item 46** of the Schedule plus all travel and other related expenses, if any, will be paid by Borrower to the Bank in this regard. This fee may increase following the first anniversary date of this Agreement.
- 14 8 **Environment** Be and remain, and cause any Subsidiary to be and remain, in compliance with the provisions of all federal, state, and local environmental, health, and safety laws, codes and ordinances, and all rules and regulations issued thereunder, notify the Bank immediately of any notice of a hazardous discharge or environmental complaint received from any governmental agency or any other party; notify the Bank immediately of any hazardous discharge from or affecting its premises, immediately contain and remove the same, in compliance with all applicable laws, promptly pay any fine or penalty assessed in connection therewith, except such assessments as are being contested in good faith, against which adequate reserves have been established, permit the Bank to inspect the premises, to conduct tests thereon, and to inspect all books, correspondence, and records pertaining thereto, and at the Bank's reasonable request, and at the Borrower's expense (but not more often than annually except when an Event of Default shall have occurred), provide a report of a qualified environmental engineer, satisfactory in scope, form, and content to the Bank, and such other and further assurances reasonably satisfactory to the Bank that the condition has been corrected.
- 14 9 **Place of Business** Promptly notify the Bank in writing of any addition to, change in, or discontinuance of its place of business as specified in **Item 16** or **18** of the Schedule.
- 14 10 **Location of Collateral** Keep all of the Collateral including all records of accounts and contract rights referred to in **Section 6** above at the address of addresses specified at the beginning of this agreement or at the locations specified in **Item 16** or **18** of the Schedule, with the exception of delivery of Inventory in the normal course of business. The Borrower shall notify the Bank promptly prior to removal of any Collateral from the state or Commonwealth specified in **Item 16** or **18** of the Schedule, and shall state in writing when and where such Collateral is to be moved.
- 14 11 **Accounts Receivables** Provide the Bank with assurances that at the time any Account Receivable becomes subject to a security interest in favor of the Bank, said Account shall be as represented in **Section 13.3** above. The Borrower shall give the Bank written notice of each office of Borrower at which the records of Borrower pertaining to Accounts Receivable are kept. Except as such notice is given, all records of the Borrower pertaining to Accounts Receivable shall be kept at such Borrower's address as specified in **Item 18** of the Schedule.
- 14 12 **Taxes and Assessments** Pay or cause to be paid all taxes, assessments and other charges of every nature which may be levied or assessed against the Collateral, or for which Borrower is liable when due, except as it, in good faith and by appropriate proceedings, shall be contesting the validity or the amount thereof, and against which adequate reserves have been established. In the event that Borrower fails to pay such taxes, assessments, costs and expenses which Borrower is required to pay, or in the event that Borrower fails to keep the Collateral free from other security interest, liens, or encumbrances, except those referred to in **Section 13.7** above, the Bank may (but shall not be required to) pay any such taxes, assessments, costs and expenses, and any amounts so paid shall constitute additional indebtedness secured hereby. The Borrower agrees that during each and every fiscal year it shall accrue all current tax liabilities, required withholding of income taxes of employees, and required Social Security and unemployment contributions, and pay the same when they shall become due, except such liabilities as are being contested in good faith, against which adequate reserves have been established. The Borrower further represents and warrants that it has paid all such tax liabilities currently.
- 14 13 **Supplemental Prior Security Interest** Supplement this Agreement by separate assignments and pledges if necessary or appropriate in the Bank's judgment, and, if such assignments and pledges are given, the rights and security interests given thereby shall be in addition to and not in limitation of the rights and security interests given by this Agreement.

- 14 14 Principal Depository Conduct its principal banking business with the Bank or its affiliates, including maintaining the Bank or its affiliates as its principal depository for its funds, including deposits for payroll taxes and income taxes, savings, certificates of deposit, general demand deposit account, and such other accounts as may be permitted
- 14 15 Additional Payments Promptly pay the Bank, ten (10) days after notice of its demand, such amount as will compensate the Bank for any such additional cost (which determination may be based upon the Bank's reasonable allocation of the aggregate of such costs) resulting if the Bank shall deem applicable to this Agreement or the Note (including, in each case, the borrowed and the unused portion thereof) any requirement of any law of the United States of America, any regulation, order, interpretation, ruling or official directive or guideline (whether or not having the force of law) of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation or any other board or governmental or administrative agency of the United States of America which shall impose, increase, modify or make applicable thereto or cause to be included in, any reserve, special deposit, calculation used in the computation of regulatory capital standards, assessment or other requirement which imposes on the Bank any cost that is attributable to the maintenance thereof if solely due to the Bank's holding of the Note. In the event any such additional cost is a continuing cost, a fee payable to the Bank may be imposed upon the Borrower periodically for so long as any such additional cost is deemed applicable to the Bank, in an amount determined by the Bank to be necessary to compensate the Bank for any such additional cost. The determination by any Bank of the existence and amount of any such additional cost shall, in the absence of manifest error, be conclusive
- 14 16 Inter-company Transactions Properly document, in accordance with generally accepted principles of accounting, all transactions between the Borrower and any Affiliate or other company, corporation, partnership, joint venture, or other entity in which Borrower or any officer, director, stockholder of, or joint venture partner in Borrower, is an officer, director, at a minimum by checks drawn to or from the appropriate party for goods or services sold or rendered
- 15 NEGATIVE COVENANTS So long as any Obligation shall remain unpaid or any credit accommodation remains in effect hereunder, the Borrower will not violate any of the covenants contained in **Item 24** of the Schedule and will not
- 15 1 Liens Create, incur, assume, or suffer to exist, or permit any Subsidiary to create, incur, assume, or suffer to exist, any Lien upon or with respect to any of its properties, now owned or hereafter acquired, except
- 15 1 1 Liens in favor of the Bank,
- 15 1 2 Liens for taxes or assessments or other government charges or levies if not yet due and payable or, if due and payable, if they are being contested in good faith by appropriate proceedings and for which appropriate reserves are maintained, and
- 15 1 3 Liens imposed by law, such as mechanic's, materialmen's, landlords', warehousemen's, and carriers' Liens, and other similar Liens, securing obligations incurred in the ordinary course of business which are not past due for more than thirty (30) days or which are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established.
- 15 1 4 Liens specified in **Item 17** of the Schedule.
- 15 2 Debt Create, incur, assume, or suffer to exist, or permit any Subsidiary to create, incur, assume, or suffer to exist, any Debt, except
- 15 2 1 Debt of the Borrower under this Agreement or the Note;
- 15 2 2 Debt described in the financial statements referred to in this Agreement, but no voluntary prepayments, renewals, extensions, or refinancing thereof,
- 15 2 3 Debt of the Borrower subordinated on terms satisfactory to the Bank to the Borrower's obligations under this Agreement and the Note, and

15 2 4 Accounts payable to trade creditors for goods or services which are not aged more than ninety (90) days from the billing date and current operating liabilities (other than for borrowed money) which are not more than sixty (60) days past due, in each case incurred in the ordinary course of business, as presently conducted, and paid within the specified time, unless contested in good faith and by appropriate proceedings

15 2 5 Debt specified in **Item 33** of the Schedule

- 15.3 No Merger, Sale or Lease of Assets or Change of Control or Management Merge with, become merged into, consolidate with, or otherwise recapitalize, with any other corporation or entity, nor will the Borrower sell, lease, assign, transfer or otherwise dispose of, or permit any Subsidiary to sell lease, assign, transfer, or otherwise dispose of, other than in the ordinary course of business, any of its assets, now or hereafter acquired (including, without limitation, shares of voting stock (but not non-voting stock) and indebtedness of Subsidiaries, receivables, and leasehold interests) Notwithstanding the foregoing, the Borrower or its Subsidiaries may: (1) sell, lease, assign, transfer, or otherwise dispose of Inventory disposed of in the ordinary course of business, (2) sell or otherwise dispose of assets no longer used or useful in the conduct of its business, and (3) sell, lease, assign, or otherwise transfer its assets to the Borrower The Borrower shall not cease to be one hundred percent (100%) owned and controlled by its existing owner(s) on the date of this Agreement as specified in **Item 22 of the Schedule**, nor shall it permit a change in its existing management
- 15 4 Fixed Asset Purchase/Lease Limitation Without the prior written consent of the Bank, purchase capital assets in excess of the amount specified, if any, in **Item 36** of the Schedule nor will it lease assets (other than real estate) with a fair market value in excess of the amount specified, if any, in **Item 37** of the Schedule, during any given fiscal year
- 15 5 Limitations on Lease Payments or other Payments with Affiliated Entities Make any payments (other than salary in the ordinary course of business) to any guarantors, affiliates or entities or persons directly or indirectly controlling, controlled by or under direct or indirect control with any person who controls Borrower (collectively an "Affiliate") except as may be approved by the Bank or as provided in leases existing on the date hereof between Borrower and any Affiliate In any event, no rental increases will be paid by Borrower to any Affiliate other than those specified in the leases as based upon and no greater than percentage changes in the Consumer Price Index announced from time to time by the United States Department of Labor
- 15 6 No Loans or Investments Make any loans to or investments in any individual or business entity, other than (i) in the normal course of business, or (ii) investments specified in **Item 34** of the Schedule, without the prior approval of the Bank, which approval will not be unreasonably withheld
- 15 7 Guaranties, Etc Assume, guaranty, endorse, or otherwise be or become directly or contingently responsible or liable, or permit any Subsidiary to assume, guaranty, endorse, or otherwise be or become directly or contingently responsible or liable (including, but not limited to, an agreement to purchase any obligation, stock, assets, goods, or services, or to supply or advance any funds, assets, goods, or services, or an agreement to maintain or cause such Person to maintain a minimum working capital or net worth, or otherwise to assure the creditors of any Person against loss) for obligations of any Person, except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business or guaranties specified in **Item 35** of the Schedule
- 15 8 Transactions With Affiliates Enter into any transaction, including, without limitation, the purchase, sale, or exchange of property or the rendering of any service, with any Affiliate, or permit any Subsidiary to enter into any transaction, including, without limitation, the purchase, sale, or exchange of property or the rendering of any service, with any Affiliate, except in the ordinary course of and pursuant to the reasonable requirements of the Borrower's or such Subsidiary's business and upon fair and reasonable terms no less favorable to the Borrower or such Subsidiary than would obtain in a comparable arm's-length transaction with a Person not an Affiliate
- 15 9 Dividend Restriction Pay any dividend upon its stock, redeem its stock, purchase its stock, or otherwise make any distribution based upon its capital stock ownership without the prior written approval of the Bank

except as specified in **Item 47** of the Schedule. Such restriction, however, shall not prohibit issuance of dividends of common stock on the stock of the Borrower. If Borrower is or elects to become an S corporation, dividends will be permitted to the extent of federal and state taxes imposed upon shareholders by reason of such status. However, nothing herein shall prevent the Borrower from redeeming its stock of a deceased shareholder to the extent that the purchase price for such redemption is paid from proceeds actually received by the Borrower under life insurance policies maintained for its benefit in order to fund such repurchase and insuring the life of the holder of such capital stock.

15 10 No Waste Waste or destroy Collateral

15.11 Storing the Collateral. Place the Collateral in any warehouse which may issue a negotiable document with respect thereto

15 12 Location of Collateral Move the Collateral from the location where they are kept as specified in **Items 16** or **18** of the Schedule

15 13 Compensation

15 13.1 Pay or obligate itself to pay, directly or indirectly, any salaries, bonuses, dividends or other compensation to its officers or directors, or members of their immediate families, in the aggregate exceeding the amount, if any specified in **Item 38** of the Schedule.

15 13 2 Pay or obligate itself to pay, directly or indirectly, any salaries, bonuses, dividends, or other compensation to the individuals, if any, specified in **Item 39** of the Schedule in excess of the amount therein specified for such individuals

16 FINANCIAL REPORTS AND COVENANTS So long as any Obligation remains unpaid or any credit accommodation remains in effect hereunder

16 1 FINANCIAL REPORTS the Borrower will provide, or cause to be provided, the following reports to the Bank

16 1 1 Unless otherwise specified in **Item 27** of the Schedule, as soon as available, and in any event within thirty (30) days after the close of each monthly period of its fiscal year (including the last month), a balance sheet as of the end of such period for Borrower, and a statement of income and retained earnings for Borrower for the period commencing at the end of the previous fiscal year and ending with the end of such month broken down by division, all in reasonable detail and stating in comparative form the respective figures for the corresponding date and period in the previous fiscal year, and all, unless otherwise specified in **Item 28** of the Schedule, internally prepared in accordance with GAAP, and certified by the chief financial officer of the Borrower (subject to year end adjustment)

16 1 2 Unless otherwise specified in **Item 27** of the Schedule, as soon as available, and in any event within thirty (30) days after the close of each quarterly period of its fiscal year, including the last quarter, a balance sheet as of the end of such period for each of the Borrower and Barre Reload & Storage, LLC, and a statement of income and retained earnings for each of the Borrower and Barre Reload & Storage, LLC for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, broken down by division, all in reasonable detail and stating in comparative form the respective figures for (i) the corresponding date and period in the previous fiscal year, and all, unless otherwise specified in **Item 28** of the Schedule, internally prepared in accordance with GAAP, and certified by the chief financial officer of the Borrower and Barre Reload & Storage, LLC, respectively (subject to year end adjustment). Together with such quarterly statements, Borrower will provide a certificate of the chief financial officer of the Borrower (a) certifying that to the best of his knowledge no Default or Event of Default has occurred and is continuing, or if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action which is proposed to be taken with respect thereto

- 16.1.3 Unless otherwise specified in **Item 25** of the Schedule, annually, as soon as available, and in any event within ninety (90) days after the end of each fiscal year for Borrower, Barre Reload & Storage, LLC and MID-PAC Electric, Inc., respectively, a balance sheet as of the end of such fiscal year each for each of the Borrower, Barre Reload & Storage, LLC and MID-PAC Electric, Inc., and a statement of income and retained earnings for each of the Borrower, Barre Reload & Storage, LLC and MID-PAC Electric, Inc. for such fiscal year, and a statement of cash flows for each of the Borrower, Barre Reload & Storage, LLC and MID-PAC Electric, Inc. for such fiscal year, all in reasonable detail and stating in comparative form the respective figures for the corresponding date and period in the prior fiscal year, and all, unless otherwise specified in **Item 26** of the Schedule, prepared with audited opinion by certified public accountants acceptable to the Bank, all in accordance with GAAP
- 16.1.4 Unless otherwise specified in **Item 29** of the Schedule, annually, as soon as available, and in any event within One hundred Twenty (120) days after the end of each fiscal year of Borrower, the corporate state and Federal tax returns of the Borrower for the year just ended
- 16.1.5 A current personal financial statement of each Guarantor in a form satisfactory to Bank and Guarantor's state and Federal tax returns for the year just ended, unless otherwise specified in **Item 30** of the Schedule, within ninety (90) days after the close of Borrower's fiscal year
- 16.1.6 Certificates executed by the Borrower's president as to the Borrower's compliance with or default under those financial covenants and conditions as are contained in **Section 16.2** below. Such certificate shall be supplied within fifteen (15) days after the end of each month.
- 16.1.7 Simultaneously with the delivery of the annual financial statements referred to in **Section 16.1.3**, a certificate of the independent public accountants who audited such statements to the effect that, in making the examination necessary for the audit of such statements, they have obtained no knowledge of any condition or event which constitutes a Default or Event of Default, or if such accountants shall have obtained knowledge of any such condition or event, specifying in such certificate each such condition or event of which they have knowledge and the nature and status thereof,
- 16.1.8 Promptly, such other and additional information concerning the Borrower, the Collateral, the operation of the Borrower's business, and the Borrower's financial condition, including financial reports and statements, as the Bank may from time to time request from the Borrower
- 16.1.9 Promptly upon receipt thereof, Borrower will furnish to the Bank copies of any reports submitted to the Borrower or any Subsidiary by independent certified public accountants in connection with examination of the financial statements of the Borrower or any Subsidiary made by such accountants
- 16.1.10 Promptly after the commencement thereof, the Borrower will furnish to the Bank notice of all actions, suits, and proceedings before any court or governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, affecting the Borrower or any Subsidiary, which, if determined adversely to the Borrower or such Subsidiary, could have a material adverse effect on the financial condition, properties, or operations of the Borrower or such Subsidiary.
- 16.1.11 Unless otherwise specified in **Item 23** of the Schedule, as soon as possible and in any event within five (5) days after the occurrence of each Default or Event of Default, Borrower will furnish to the Bank a written notice setting forth the details of such Default or Event of Default and the action which is proposed to be taken by the Borrower with respect thereto.
- 16.1.12 All Reports and Certificates required herein will contain a certification by the chief financial officer of the Borrower that the information contained in the report is true and accurate to the best of the officer's knowledge
- 16.2 **Financial Covenants** The Borrower and its Subsidiaries shall meet the financial covenants specified in **Item 32** of the Schedule Unless otherwise specified in **Item 32**, for purposes of the financial covenants

the Borrower and its Subsidiaries shall be treated on a consolidated basis, and all ratios will be tested on a quarterly basis

- 17 EVENTS OF DEFAULT, ACCELERATION Any and all liabilities and obligations of the Borrower to the Bank shall, at the option of the Bank, and notwithstanding any time or credit allowed by any instrument evidencing a liability, become immediately due and payable without notice or demand (except as provided below) upon the occurrence of any of the following events of default
- 17 1 Failure to pay when due or payable any payment or any other liability of the Borrower, or any endorser, guarantor or surety for any liability of the Borrower to the Bank, as trustee or otherwise.
 - 17 2 Failure of the Borrower to pay when due any tax or any premium on any insurance policy after any applicable grace period
 - 17 3 Any warranty, representation or statement made or furnished to the Bank, by or on behalf of the Borrower, proves to have been false in any material respect when made or furnished
 - 17 4 Failure of the Borrower, after ten (10) days written notice of request by the Bank, to furnish financial information, or to permit the inspection of the books and records of the Borrower
 - 17 5 Sale of all or substantially all of the assets of the Borrower, or any sale or sales of capital stock of the Borrower which would result in a change of controlling interest without the prior written consent of the Bank
 - 17 6 Insolvency of the Borrower or any Guarantor
 - 17 7 Death of any Guarantor
 - 17 8 Dissolution, merger or consolidation of the Borrower
 - 17 9 Any attachments, levy on execution, or other judicial proceedings on any property of the Borrower or on the Borrower not discharged within thirty (30) days of notice to the Borrower of such proceedings or appealed in good faith and adequately bonded by Borrower
 - 17 10 One or more judgments, decrees, or orders for the payment of money shall be rendered against the Borrower or any Guarantor, and such judgments, decrees, or orders shall continue unsatisfied and in effect for a period of (30) consecutive days without being vacated, discharged, satisfied, or stayed or bonded pending appeal
 - 17 11 There shall occur with respect to the Collateral any (i) misappropriation, conversion, diversion or fraud; (ii) levy, seizure or attachment, (iii) material loss, theft, damage or destruction not covered by adequate insurance, or (iv) unauthorized sale or encumbrance
 - 17 12 A default or failure in the performance or observance of any term, condition, covenant or agreement contained herein or in any other agreement, instrument or document (whether now existing or hereafter entered into, and whether related or unrelated to this Agreement) evidencing, securing or otherwise relating to any obligation of the Borrower or any Guarantor to the Bank
 - 17 13 Failure by the Borrower or the Guarantor (a) to pay any indebtedness for borrowed money of the Borrower or of the Guarantor, as the case may be, or any interest or premium thereon, when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise), or (b) to perform or observe any term, covenant, or condition on its part to be performed or observed under any agreement or instrument relating to any such indebtedness, when required to be performed or observed, if the effect of such failure to perform or observe is to accelerate, or to permit the acceleration of, after the giving of notice or passage of time, or both, the maturity of such indebtedness, whether or not such failure to perform or observe shall be waived by the holder of such indebtedness, or any such indebtedness shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment), prior to the stated maturity thereof

17.14 Unauthorized sale, pledge or encumbrance of any Collateral

17.15 Bank shall believe in good faith that the prospect of payment of all or any part of the Obligations or performance of Borrower's obligations under the Loan Documents or any other agreement between Bank and Borrower is impaired, or there shall occur any materially adverse change in the assets, liabilities, business, financial condition or prospects of Borrower

17.16 This Agreement shall at any time after its execution and delivery and for any reason cease (a) to create a valid and perfected first priority security interest in and to the property purported to be subject to this Agreement, or (b) to be in full force and effect or shall be declared null and void, or the validity or enforceability thereof shall be contested by the Borrower, or the Borrower shall deny it has any further liability or obligation under this Agreement

17.17 Any Guaranty shall at any time after its execution and delivery and for any reason cease to be in full force and effect or shall be declared null and void, or the validity or enforceability thereof shall be contested by any Guarantor or any Guarantor shall deny it has any further liability or obligation under, or shall fail to perform its obligations under, its respective Guaranty

17.18 Any of the following events shall occur or exist with respect to the Borrower or any Commonly Controlled Entity under ERISA any Reportable Event shall occur, complete or partial withdrawal from any multi-employer Plan shall take place, any Prohibited Transaction shall occur, a notice of intent to terminate a Plan shall be filed, or a Plan shall be terminated without prior approval of the Bank, which approval shall not be unreasonably withheld, or circumstances shall exist which constitute grounds entitling the PBGC to institute proceedings to terminate a Plan, or the PBGC shall institute such proceedings, and in each case above, such event or condition, together with all other events or conditions, if any, could subject the Borrower to any tax, penalty, or other liability

17.19 If the Bank receives its first notice of a hazardous discharge or an environmental complaint from a source other than the Borrower, and the Bank does not receive notice (which may be given in oral form, provided same is followed with all due dispatch by written notice given by Certified Mail, Return Receipt Requested) of such hazardous discharge or environmental complaint from the Borrower within twenty-four (24) hours of the time the Bank first receives said notice from a source other than the Borrower, or if any federal, state, or local agency asserts or creates a Lien upon any or all of the assets, equipment, property, leaseholds, or other facilities of the Borrower by reason of the occurrence of a hazardous discharge or an environmental complaint, or if any federal, state, or local agency asserts a claim against the Borrower and/or its assets, equipment, property, leaseholds, or other facilities for damages or cleanup costs relating to a hazardous discharge or an environmental complaint, provided, however, that such claim shall not constitute a default if, within three (3) Business Days of the occurrence giving rise to the claim, (a) the Borrower can prove to the Bank's satisfaction that the Borrower has commenced and is diligently pursuing either, (i) a cure or correction of the event which constitutes the basis for the claim, and continues diligently to pursue such cure or correction to completion or (ii) proceedings for an injunction, a restraining order, or other appropriate emergency relief preventing such agency or agencies from asserting such claim, which relief is granted within ten (10) Business Days of the occurrence giving rise to the claim and the injunction, order, or emergency relief is not thereafter resolved or reversed on appeal, and (b) in either of the foregoing events, the Borrower has posted a bond, letter of credit, or other security satisfactory in form, substance, and amount to both the Bank and the agency or entity asserting the claim to secure the proper and complete cure or correction of the event which constitutes the basis for the claim

18 RIGHTS AND REMEDIES In addition to declaring immediately due and payable all amounts represented by the Borrower's Loan Account, together with any and all additional charges added thereto, the Bank shall, upon the occurrence of any of the above-described events of default, have the following rights and remedies

18.1 The Bank may at any time enter upon the property of the Borrower, and remain upon such property for so long as is reasonably necessary without being liable for any prosecution or damage therefor, and take complete peaceful possession of the Collateral and remove same at the election of the Bank

18.2 The Bank may exercise all the rights and remedies of a secured party under the Uniform Commercial Code of the Commonwealth of Massachusetts (M.G.L. c. 106). The Bank may at any time, in its discretion, transfer any securities or other property constituting Collateral into its own name or that of its

nominee, and receive the income thereon and hold the same as security for liabilities, or apply it on principal or interest due on liabilities

18.3 The Bank may enforce the provisions of this Agreement by legal proceedings for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate, legal or equitable remedy, and may recover damages caused by any breach by the Borrower of the provisions of this Agreement, including court costs, reasonable attorney's fees, and other costs and expenses incurred in enforcing the obligations of this Agreement or the Note referred to above.

18.4 In the case of any sale or disposition of the Collateral, or the realization of funds therefrom, the proceeds thereof shall first be applied to the payment of the expenses of such sale, commissions, reasonable attorneys' fees and all charges paid or incurred by the Bank pertaining to said sale, including any taxes or other charges imposed by law upon the Collateral and/or the owning, holding or transferring thereof, secondly, to pay, satisfy and discharge the Obligations secured hereby, and thirdly, to pay the surplus, if any, to Borrower, provided that the time of any application of the proceeds shall be at the sole and absolute discretion of the Bank. To the extent such proceeds do not satisfy the foregoing items, Borrower hereby promises and agrees to pay any deficiency.

18.5 The Bank to the extent Borrower could legally do so may use all trademarks, service marks, trade names, trade styles, logos, goodwill, trade secrets, franchises, licenses and patents which the Borrower now has or may hereafter acquire.

18.6 The Bank may require the Borrower to assemble the Collateral in a single location at a place to be designated by Bank and make the Collateral at all times secure and available to the Bank.

19 DEPOSITS Any and all deposits or other sums at any time credited by or due from the Bank to the Borrower, and any securities or other property of the Borrower being held by the Bank or on account of the Borrower, may at all times be held and treated as Collateral for any and all obligations of the Borrower to the Bank, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising. The Bank may apply or set-off such deposits or other sums against any obligations after an Event of Default and expiration of any grace period, whether or not said obligations or other security held by the Bank is considered by the Bank to be adequate. The Bank, on or after an Event of Default under this Agreement, may sell any such securities or other property held as Collateral for the repayment or performance of such obligations in a commercially reasonable manner.

20 WAIVERS The Borrower waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered, or any action taken in reliance hereon, and all other demands and notice of any description. With respect to liabilities and Collateral, the Borrower assents to any extension or postponement of the time of payment or any other indulgence or any substitution, exchange or release of Collateral, to the addition or release of any party or person primarily or secondarily liable, to the acceptance of partial payments thereon and the settlement thereof, all in such manner and at such time or times as the Bank may deem advisable. The Bank shall have no duty as to the collection of Collateral beyond reasonable care and protection of any Collateral in its possession, or any income thereon, nor as to the preservation of rights against prior parties, or as to the preservation of any rights pertaining thereto beyond the safe custody of any Collateral in its possession. The Bank may exercise its rights with respect to Collateral without resorting or regard to other Collateral or sources of reimbursement or liability. The Bank shall not be deemed to have waived any of its rights upon or under liabilities or Collateral, unless such waiver shall be in writing and signed by the Bank. No delay or omission on the part of the Bank in exercising any right shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion. All rights and remedies of the Bank on liabilities or Collateral, whether evidenced hereby or by any other instrument or papers, shall be cumulative and may be exercised singularly or concurrently.

21 GENERAL PROVISIONS

21.1 Uniform Commercial Code Applicable To the extent applicable, the Uniform Commercial Code of the Commonwealth of Massachusetts shall govern the security interest provided for herein. In connection therewith, the Borrower shall take such steps and execute and deliver such financing statements and other papers as the Bank may from time to time request. If, by reason of location of Collateral or

otherwise, the creation, validity or perfection of the security interest provided for herein are governed by the law of a jurisdiction other than Massachusetts, the Borrower shall take such steps and execute and deliver such papers as the Bank may from time to time request to comply with the Uniform Commercial Code and such other laws of other states or the federal government as are appropriate.

- 21 2 Severability of Provisions Any provision of any Loan Document which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of such Loan Document or affecting the validity or enforceability of such provision in any other jurisdiction
- 21 3 Other Indebtedness Except as provided herein, so long as any indebtedness to the Bank secured hereby remains unpaid, the Borrower shall not pledge, mortgage or create, or suffer to exist, a security interest in the above-described Collateral, except as may arise by operation of law, nor shall the Borrower sell, assign or create a security interest in contract rights or Accounts Receivable in favor of any person other than the Bank
- 21 4 Notices All notices and other communications hereunder shall be mailed or delivered to the various parties at the addresses appearing at the beginning of this Agreement Any party may change its address for such communications by notifying the other party in writing
- 21.5 Indemnification
- 21 5.1 The Borrower hereby agrees to defend, indemnify, and hold the Bank harmless from and against any and all claims, damages, judgments, penalties, costs, and expenses (including reasonable attorney fees and court costs now or hereafter arising from the aforesaid enforcement of this clause) arising directly or indirectly from the activities of the Borrower and its Subsidiaries, its predecessors in interest, or third parties with whom it has a contractual relationship, or arising directly or indirectly from the violation of any environmental protection, health, or safety law, whether such claims are asserted by any governmental agency or any other person The provisions of this Section shall survive termination of this Agreement and the Loan Documents
- 21 5.2 If after receipt of any payment of all or any part of the Obligations, Bank is for any reason compelled to surrender such payment to any person or entity because such payment is determined to be void or voidable as a preference, an impermissible setoff, or a diversion of trust funds, or for any other reason, the Loan Documents shall continue in full force and Borrower shall be liable, and shall indemnify and hold Bank harmless for, the amount of such payment surrendered The provisions of this Section shall be and remain effective notwithstanding any contrary action which may have been taken by Bank in reliance upon such payment, and any such contrary action so taken shall be without prejudice to Bank's rights under the Loan Documents and shall be deemed to have been conditioned upon such payment having become final and irrevocable The provisions of this Section shall survive the termination of this Agreement and the Loan Documents
- 21 5 3 Borrower agrees to pay, indemnify, and hold Bank harmless, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (including, without limitation, reasonable counsel and special counsel fees and disbursements in connection with any litigation, investigation, hearing or other proceeding) with respect or in any way related to the existence, execution, delivery, enforcement, performance or administration of this Agreement or any other Loan Document (all of the foregoing, collectively, the "Indemnified Liabilities") The agreement in this Section shall survive repayment of the Obligations
- 21 6 Survival All representations, warranties, covenants, and agreements contained herein shall survive the execution and delivery of this Agreement, the Note and any other agreements or documents required for this transaction
- 21 7 Successors and Assigns This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, however, no assignment of this Agreement by the Borrower shall in any way relieve the Borrower of its obligations hereunder

- 21.8 Applicable Law This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts, and is intended to take effect as a sealed instrument
- 21.9 Captions and Counterparts The captions of this Agreement are for convenience only and shall not affect the construction hereof. This Agreement may be executed in several counterparts, each of which shall be deemed an original.
- 21.10 Modification No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be made, except (i) as may be specified in **Item 42** of the Schedule, or (ii) by a written agreement signed by Borrower and a duly authorized officer of the Bank
- 21.11 Jury Trial Waiver THE BANK AND THE BORROWER EACH ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED BY COUNSEL AND THAT THIS DOCUMENT WAS AVAILABLE FOR REVIEW AND NEGOTIATION PRIOR TO ITS EXECUTION. THE BORROWER HEREBY AGREES THAT ALL OF BANK'S RIGHTS WERE THE RESULT OF NEGOTIATIONS BETWEEN THE BANK AND THE BORROWER AND WERE INDUCED IN A MATERIAL RESPECT BY THE BENEFITS GRANTED TO THE BORROWER HEREUNDER. IN THIS CONTEXT, THE BORROWER AND BANK ALL AGREE TO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM, WHETHER IN CONTRACT OR TORT, OR AT LAW OR IN EQUITY, AS TO ANY AND ALL MATTERS AND ISSUES WHICH MAY ARISE HEREFROM OR FROM ANY OTHER DOCUMENT, LETTER OR AGREEMENT EXECUTED IN CONJUNCTION HERewith, WHETHER DIRECTLY OR INDIRECTLY, INCLUDING WITHOUT LIMITATION, COUNTERCLAIMS, IF ANY. NO OFFICER OF THE BANK HAS AUTHORITY TO WAIVE, CONDITION, OR MODIFY THIS PROVISION ORALLY.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals to this Agreement the day and year first above written

WITNESS

BORROWER

MASSACHUSETTS CENTRAL RAILROAD
CORPORATION

By W. Robert Bentley Pres
Name W. ROBERT BENTLEY
Title PRES.

SPRINGFIELD INSTITUTION FOR
SAVINGS

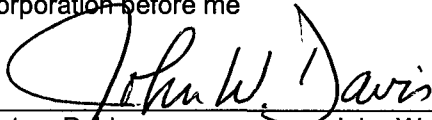
By [Signature]
Name David R. Danker
Title Vice President

COMMONWEALTH OF MASSACHUSETTS

Hampden, ss.

December 16, 1996

Then personally appeared the above named W Robert Bentley and acknowledged the foregoing instrument to be the free act and deed of Massachusetts Central Railroad Corporation before me



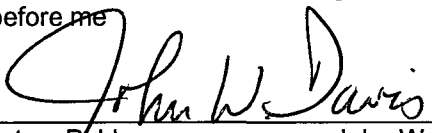
Notary Public John W. Davis
My Commission Expires March 20, 1998

COMMONWEALTH OF MASSACHUSETTS

Hampden, ss.

December 24, 1996

Then personally appeared the above named David R Danker and acknowledged the foregoing instrument to be the free act and deed of Springfield Institution for Savings before me



Notary Public John W. Davis
My Commission Expires March 20, 1998

EXHIBIT "A"

COLLATERAL

All of the Debtor's tangible and intangible personal property, wherever located, whether now owned or now due, or hereafter at any time in the future acquired, arising, to become due or in which Debtor obtains an interest, including, without limitation, the following

All fixtures, leasehold improvements, fittings, furniture, furnishings, appliances, apparatus, materials, equipment, machinery, parts and tools, and

All inventory, supplies and other goods and materials for sale or lease, including all contract rights with respect thereto and documents representing same; and all goods to be furnished under contracts of service and all materials and supplies of every nature used or usable in connection with the manufacture, packing, shipping, advertising, selling, leasing or furnishing of such goods, all motor vehicles, and

All leases and use agreements of machinery, equipment and other personal property of Debtor in the categories hereinabove set forth, under which Debtor is the lessee of, or entitled to use, such items, and

All property allocable to unshipped orders, and all merchandise returned by or reclaimed by or repossessed from customers, all rights of stoppage in transit, replevin, repossession and reclamation, and all other rights of an unpaid vendor or lienor; and the interests of the Debtor in goods or merchandise as to which an account receivable for goods sold or delivered has arisen, and

All accounts, accounts receivable, contract rights, notes, bills, acceptances, drafts and all other forms of obligations and amounts owed or owing at any time to Debtor, including, without limitation, all accounts arising from the sale or other disposition of inventory and goods, together with all books, records, ledgers and account cards, whether now in existence or hereafter created, and all rights of access to such books, records and information wherever stored, recorded or maintained, and

All of the machinery and equipment described on Exhibit "B" annexed hereto; and

All of Debtor's goodwill, know-how, trade secrets, trade names, customer lists, computer programs, causes of action, judgments, trademarks and patents, patent rights, logos, and

All Federal, state and local tax refunds and/or abatements to which the Debtor is or becomes entitled, including, but not limited to any loss carryback tax refunds, all insurance refunds and premium refunds and rebates, and

All other tangible and intangible personal property, including all goods, general intangibles, chattel paper, licenses, franchises, permits, Federal and state tax refunds, money, cash, dividends, deposits, deposit accounts and securities, plans, reports, catalogs, manuals, proposals, technical data, in any matter related to or connected with the design, development, manufacture, sale, marketing, lease or use of any or all goods produced or sold or leased, documents, documents of title, instruments, and

All rents, incomes, profits, revenues, royalties, bonuses, rights and benefits under any and all leases or tenancies now existing or hereafter created with respect to any real property or any part thereof, with the right to receive and apply the same to any indebtedness secured by any of the collateral described herein, and

All judgments, awards of damages and settlements hereafter made as a result of or in lieu of any taking of any real or personal property or any part thereof or interest therein under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to any such property or the improvements thereon or any part thereof or interest therein, including any award for change of grade of streets, and

All policies and certificates of insurance, all credit, fire, casualty, theft and other insurance claims and proceeds

All proceeds and products of any and all of the collateral described herein, including, without limitation, all proceeds of the conversion, voluntary or involuntary, of any of the foregoing collateral into cash or liquidated claims. The term "proceeds" shall include, without limitation, all types or classifications of non-cash proceeds acquired with cash proceeds, and all products, renewals, replacements, substitutions, attachments, additions and accessions to any of the collateral set forth herein

Locomotives

1	Unit 21	Alco RS-1
2	Unit 65	Porter 44-ton Switcher
3	Unit 401	Whitcomb 44-ton Switcher
4	Unit 960	EMD GP7/10 converted to GP38
5	Unit 2100	EMD NW-5 Roadswitcher
6	Unit 4220	Alco C-424
7	Unit 4243	Alco C-425
8	Unit 4258	Alco C-425
9	Unit 4264	Alco C-425

Freight Cars

40' boxcar
small tank car
(2) 52' flat cars
(2) 77-ton open top hoppers
~~20-ton covered hopper~~
Caboose 79524
100-ton open top hopper

Intermodal Equipment

Mi-Jack (Drott) Straddle Crane AC800
LeTourneau Letro-Porter 2682CH
Taylor Empty Container Handler TYC250M

Track and Miscellaneous Equipment

Toledo/Masstron 7260 Weigh-in-Motion Scale
Geismar Tie Changer MRT-2
Case 580C TrackMaster
Fork Lift
(2) Aluminum 6,000 pound track carts
Atlas Compressor/Utility Trailer
Homemade Trailer with Arc Welder
1983 GMC Sierra 1-ton truck
1986 Ford Pickup w/hi-rail
1989 Chevrolet Fleetside Pickup
Track and Mechanical Tools
Office Furniture and Computers

Passenger Equipment

Coach 101
Coach 102
Coach 338
Coach 345
Coach 729

**SCHEDULE
To
Loan and Security Agreement**

This Schedule is a part of a Loan and Security Agreement dated December 16, 1996, between MASSACHUSETTS CENTRAL RAILROAD CORPORATION, a Commonwealth of Massachusetts corporation having a principal place of business at One Wilbraham Street, Palmer, Massachusetts (hereinafter referred to as the "Borrower"), and SPRINGFIELD INSTITUTION FOR SAVINGS, a Massachusetts banking institution having a principal place of business at 1441 Main Street, Springfield, Massachusetts, 01103 (hereinafter referred to as the "Bank")

1 Borrowing Capacity (§1 1 8)

The term "**Borrowing Capacity**" as used herein shall mean the lesser of (i) Four Hundred Thousand Dollars (\$400,000) or (ii) the sum of the following

- 1 1 Up to seventy five percent (75%) of the unpaid face amount of the Receivables Borrowing Base or such other percentage thereof as may from time to time be fixed by the Bank upon notice to Borrower, PLUS
- 1 2 the lesser of (i) \$0 00 or (ii) the amount of the Inventory Borrowing Base, MINUS
- 1 3 One hundred percent (100 00%) of the aggregate Standby L/C Liability, MINUS
- 1.4 One hundred percent (100.00%) of the amount of all outstanding documentary letters of credit for trade goods to be received, issued on behalf of the Borrower (in the event that the percentage advance rate on inventory is changed, this reduction in the overall credit availability will be based upon the reciprocal of such percentage),
- 1 5 but in no event shall the sum of all Loans plus the Standby L/C Liability be in excess of \$400,000 00 or such other sum as may from time to time be fixed by the Bank upon notice to the Borrower.

2 Inventory Borrowing Base Percentages. (§1.1.30)

The following percentages of dollar value (calculated at the lower of actual cost or market value) are applicable to such of the following categories defined as Eligible Inventory

2 1	certain raw material on perpetual report, to the extent of	<u>00 00%</u>
2 2	finished goods, store inventory, to the extent of	<u>00 00%</u>
2 3	work in progress, to the extent of	<u>00 00%</u>

3 Cash Discount (§§1 1 15 & 7)

Maximum Cash Discount of 2 00%, Net 10 days

4 Receivables - Age (§1 1 28 1)

90 Days after the [x] invoice date, as shown on the Invoice evidencing the applicable Account, or
90 Days after the last day of the month of the Account's final settlement, if the Account is due from a fleet management account debtor, or
60 Days after the [x] statement date (not to exceed 90 days after the Invoice date) if the Account is a "dated" account (in accordance with Borrower's usual business practices)

5 Receivables Disqualification Percentage (§1.1 28 6)

50 00% or more

6 Permissible Foreign Account Debtors. (§1.1 28 7)

Canadian Pacific Railroad Corporation (a Canadian corporation), Canadian National Railroad Corporation (a Canadian corporation), or such other foreign account debtors as shall hereafter be approved by the Bank in writing

7 Aggregated Accounts (§1 1 28 22)

15 00% or more

- 8 Inventory Accounting (§1 1 30)
[N/A] First-in, first-out (FIFO) [N/A] Last-in, first-out (LIFO) [N/A] Others as specified below
- 9 Interest Rate (§2 1)
The aggregate of (x) the Bank's Prime Rate and (y) one and one-half percent (1.50%), varying daily, without minimum or maximum, determined on the basis of a year of 360 days.
- 10 Fees and Due Dates (§§2.1 and 2 2)
- | <u>Type</u> | <u>Amount</u> | <u>Due Date(s)</u> |
|--------------------|--|----------------------|
| Over-Line Fee [XX] | Together with interest thereon as provided in the Revolving Line of Credit Note, an over-line fee equal to the aggregate of (x) the Prime Rate and (y) <u>two</u> percent (<u>2.0</u> %) multiplied by the amount of the excess over the Borrowing Capacity | On date of Over-Line |
- 11 Advances - Days Notice (§3 1)
At least one (1) Business Day prior to any request for advances.
- 12 Clearance Days and Interest Charge Days (§10 2)
2 Calendar Day(s)
- 13 Subsidiaries of the Borrower and Ownership Percentages (§13 14, 13 15)
None
- 14 State of Incorporation (§13 1)
Borrower Commonwealth of Massachusetts
Subsidiaries N/A
- 15 Principal Office of Bank (§1 1 43)
Bank's office at 1441 Main Street, Springfield, Massachusetts, 01103.
- 16 Location(s) of Inventory and Equipment (§§13 4, 13 5, 13 6, 13 21, 14 9, 14 10 & 15.12)
Inventory Locations.
One Wilbraham Street, Palmer, MA
- Equipment Locations (including names and addresses of owners or real property and mortgages)
- | <u>LOCATION</u> | <u>LANDLORD/OWNER</u> |
|----------------------------------|-----------------------|
| One Wilbraham Street, Palmer, MA | BORROWER |
- 17 Permitted Encumbrances (§§13.7 & 15 14)
Junior security interest held by Massachusetts Business Development Company
- 18 Business Records Location (§§13.6, 14 9, 14 10, 14 11 & 15.12)
One Wilbraham Street, Palmer, MA
- 19 Trademarks and Patents (§13 15, 13 24)
None
- 20 Margin Stock (§13 25)
None
- 21 Litigation (§13 12)
None

22 Authorized Shares (§15.3)

No of authorized common shares. 966
 par Value of Common shares: \$ _____ per share
 No of issued and outstanding shares:
 Charles D Allen 10 shares
 W Robert Bentley 60 shares
 MID-Pac Electric, Inc 854 shares
 Michael V Grybko 10 shares
 Louis O Hebert 10 shares
 James T Moore, III 12 shares
 Alfred M. Randall 10 shares

 Total 966 shares

23 Required Documents (§§9,11 2 2 & 16 1)

Document	Check if Required	Frequency Due
Cash Report/Deposit Tickets	[XX]	Upon Request
Accounts Receivable / Credit Memos Aging (30-60-90 Day Categories and by Account)	[XX]	Monthly within 15 days after the end of each month
Accounts Payable (30-60-90 Day Categories and by Account)	[XX]	Monthly within 15 days after the end of each month
Invoices	[XX]	Upon Request
Inventory Report at Lower of Cost or Fair Market Value	[XX]	Upon request by Bank
a Value Report	[XX]	Upon request by Bank
b Periodic Summary Report		Upon request by Bank
c Dispute Report	[XX]	Upon request by Bank
Copies of shipping documents relating to the Accounts	[XX]	Upon request by Bank
Borrowing Base Report (Borrower's Certificate)	[XX]	Weekly
Reconciliation report, in form satisfactory to Bank, showing all Accounts, Collections, Payments, Credits, and Extensions since the preceding report	[XX]	Monthly within 10 days after the end of each month
List of names and addresses of Account Debtors to whom Borrower has made sales during the previous fiscal year of Borrower	[XX]	Annually, within 30 days after the end of each fiscal year
Covenant Compliance Certificate	[XX]	Quarterly, within 30 days after the end of each quarter
Notice of noncompliance with the provisions of this Agreement or if any representation or warranty contained herein is no longer true or accurate	[XX]	Immediately upon learning of such noncompliance
Annual plan/budget including capital budget and pro forma profit and loss, balance sheet and cash flow	[XX]	Annually no more than 90 days after fiscal year end
Annual capital expenditure plan/budget	[XX]	Annually no less than 90 days after fiscal year end
"High debtor" report	[XX]	Monthly within 10 days after the end of each month
Debit Memoranda	[XX]	Upon Request
Other as indicated below		

24 Additional Covenants (§§14 & 15)
 N/A

25 Annual Financial Statements - Timing (§16 1 3)

Within one hundred and twenty (120) days after the end of each fiscal year for Borrower, Barre Reload & Storage, LLC and MID-PAC Electric, Inc.

26 Annual Financial Statements - Form (§16.1.3)

The following prepared by independent certified public accountants satisfactory to Bank

As to Borrower's financial statements - [x] audited

As to Barre Reload & Storage, LLC financial statements- [X] review level

As to MID-PAC Electric, Inc. financial statements - [X] review level

27 Interim Financial Statements - Timing (§§16.1.1 & 16.1.2)

Quarterly financial statements within 30 days of quarter end.

28 Interim Financial Statements - Form (§§16.1.1 & 16.1.2)

The following prepared by independent certified public accountants satisfactory to Bank

[] a compilation [] a review or [] audited

or, [X] Internally prepared and certified by the Chief Financial Officer

29 Borrower's State and Federal Tax Returns - Timing (§16.1.4)

Within one hundred and twenty (120) days of calendar year end

30 Guarantor's Personal Financial Statements and Tax Returns - Required Providers and Timing (§16.1.5)

Within one hundred and twenty (120) days of calendar year end

31 Terms of Sale (§7)

Due dates of no more than 30 calendar days from date of Invoice, except in regard to transactions specified below under "Datings."

Datings: None

32 Financial Covenants (§16.2)

A. Debt Service Coverage Borrower shall at all times maintain a ratio of (a) Adjusted Cash Flow to (b) Required Debt Service, of not less than 1.25:1.00. For purposes hereof, "Adjusted Cash Flow" shall mean, at any time that the amount thereof shall be determined, and for the period specified, Borrower's net income from operations for such period (including, without limitation, reductions against income for all payments to MID-PAC Electric, Inc. for consulting or management services), plus all interest and income tax expense for such period, and all depreciation expense and amortization of intangible assets for such period, minus all dividends and other distributions to shareholders by Borrower, and all amounts expended or obligations incurred for capital expenditures (but excluding any capital expenditure financed by any lender) during such period, and "Required Debt Service" shall mean at any time that the amount thereof shall be determined, and for the period specified, the sum of Borrower's interest expense for such period and Borrower's current maturities of long term indebtedness for such period.

B. Total Liabilities to Tangible Net Worth Ratio The ratio of (i) Borrower's Total Liabilities to (ii) Borrower's Tangible Net Worth shall at all times not exceed 3.00:1.00 by December 31, 1996, 2.75:1.00 by December 31, 1997, and 2.50:1.00 by December 31, 1998. For purposes hereof, "Total Liabilities" shall mean, at any date as of which the amount thereof shall be determined, obligations that should, in accordance with GAAP, be classified as liabilities on the balance sheet of Borrower, and "Tangible Net Worth" shall mean, at any date as of which the amount thereof shall be determined, the total assets of Borrower minus (i) the sum of any amounts attributable to goodwill or any other item considered to be an intangible according to GAAP and (ii) Total Liabilities.

C. Review of Financial Covenants. While the Bank intends to review the Borrower's compliance with the financial covenants (other than the Debt Service Coverage which the Bank intends to review at the end of each month with respect to each monthly period so ending) set forth above at the end of each quarter, the Bank at all times reserves the right to review compliance at any other time and with respect to any other time period, at the Bank's sole and exclusive discretion. Notwithstanding the above, failure by the Bank to so review covenant compliance at any time or with respect to any time period, or to recognize or declare an existing violation at any time, shall not be construed as a waiver of such covenant or any other obligation of the Borrower to the Bank, or of any right, power, or privilege of the Bank.

In addition to any other covenant compliance certificate required to be furnished by Borrower pursuant to any other provision of the Loan and Security Agreement, Borrower shall, concurrently with the delivery of the monthly financial statements required pursuant to 16.1 hereof, a completed debt service coverage compliance certificate in a form substantially the same as that attached hereto as Exhibit 16.2 and otherwise satisfactory to the Bank and signed on behalf of Borrower by its chief financial officer

33 Permitted Borrowings (§15.2.5)

Borrower	None
Subsidiaries:	None

34 Permitted Investments and Advances (§15.6)

Borrower:	None
Subsidiaries:	None

35 Permitted Guaranties (§15.7)

Borrower	None
Subsidiaries:	None

36 Permitted Capital Expenditures (§15.4)

Borrower.	\$ 150,000
Subsidiaries	\$ 0.00 (zero)

37 Maximum Annual Lease Rentals (§15.4)

Borrower:	Annual aggregate amount of \$ <u>N/A</u>
Subsidiaries:	\$ 0.00 (zero)

38 Maximum Aggregate Compensation (§15.13.1)

Borrower.	\$N/A	Subsidiaries.	\$N/A
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39 Maximum Annual Compensation for Certain Individuals (§15.13.2)

	<u>Name</u>	<u>Amount</u>
Borrower	N/A	
Subsidiaries	N/A	

40 State (§1.1.56)

Commonwealth of Massachusetts

41 Prepayment Premium (§2.3)

N/A

42 Other Provisions (§21.11)

In the event Borrower's Accounts suffer a dilution at any time resulting from bad debts, credit memos, returned merchandise or any other reason or any combination thereof (other than payment) in an amount equal to or greater than five (5%) percent of a Receivables Borrowing Base, Bank, in its sole discretion may reduce the percentage set forth in **Item 1** of this Schedule to be applied to Borrower's receivables Borrowing Base

43 Guarantors (§4.3)

Richard H. Close
MID-PAC Electric, Inc

Subordinations (§4.3)

MID-PAC Electric, Inc

44 Key Pension Insurance (§14.5)

N/A

45 Review Date (§1.1.49)

The review date shall be May 31 of each year.

46 Audit Fees (\$14.7)
Quarterly audit fee of \$900 per audit

47 Distribution to Stock Holders (\$15.9)
None

The undersigned have executed this Schedule on December 16th, 1996

BORROWER

MASSACHUSETTS CENTRAL RAILROAD
CORPORATION

By W. Robert Bentley Pres.
Name W. ROBERT BENTLEY
Title PRES.

SPRINGFIELD INSTITUTION FOR
SAVINGS

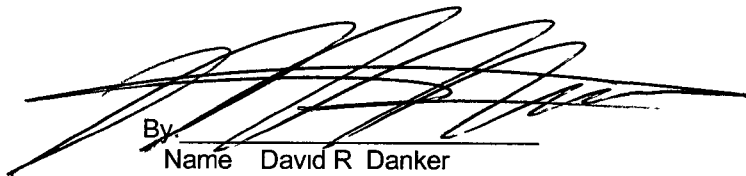

By _____
Name David R. Danker
Title Vice President

Exhibit 16.2

MASSACHUSETTS CENTRAL RAILROAD CORPORATION

REPORT OF CHIEF FINANCIAL OFFICER

Massachusetts Central Railroad Corporation (the "Company") HEREBY CERTIFIES that:

This Report is furnished pursuant to Section 16 of the Loan and Security Agreement dated as of December ____, 1996 by and between the Company and Springfield Institution for Savings (the "Agreement"). Unless otherwise defined herein, the terms used in this Report have the meanings given to them in the Agreement

As required by Section 16.1.1 of the Agreement, financial statements of the Company for the month ended ____, 19__ (the "Financial Statements") prepared in accordance with generally accepted accounting principles consistently applied accompany this Report. The Financial Statements present fairly the financial position of the Company as at the date thereof and the results of operations of the Company for the period covered thereby (subject only to normal recurring year-end adjustments)

The figures set forth in Schedule A for determining compliance by the Company with the Debt Service Coverage covenant contained in the Agreement are true and complete as of the date hereof

The activities of the Company during the period covered by the Financial Statements have been reviewed by the Chief Financial Officer or by employees or agents under his immediate supervision. Based on such review, to the best knowledge and belief of the Chief Financial Officer, and as of the date of this Report, no Default has occurred*

WITNESS my hand this ____ day of ____, 19__

MASSACHUSETTS CENTRAL RAILROAD CORPORATION

By. _____
Name.
Title

* If a Default has occurred, this paragraph is to be modified with an appropriate statement as to the nature thereof, the period of existence thereof and what action the Company has taken, is taking, or proposes to take with respect thereto

Schedule A

MONTHLY DEBT SERVICE COVERAGE CERTIFICATION

FOR THE MONTH OF _____

ADJUSTED CASH FLOW

NET INCOME FROM OPERATIONS (AFTER CONSULTING FEES TO MID-PAC ELECTRIC, INC)	\$ _____
PLUS INTEREST EXPENSE	_____
PLUS INCOME TAX EXPENSE	_____
PLUS DEPRECIATION EXPENSE	_____
PLUS AMORTIZATION EXPENSE	_____
LESS DISTRIBUTIONS AND DIVIDENDS	_____
LESS UNFINANCED CAPITAL EXPENDITURES	_____
TOTAL	\$ _____

REQUIRED DEBT SERVICE

INTEREST EXPENSE	\$ _____
CURRENT MATURITIES OF LONG TERM DEBT (INCLUDING PAYMENT ON SUB DEBT TO MID-PAC ELECTRIC)	_____
TOTAL	\$ _____

DEBT COVERAGE RATIO (Minimum of 1.25:1.00)	_____
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